

SEVENTY-SECOND DAY
(Tuesday, May 21, 1991)

The Senate met at 10:00 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brooks, Brown, Carriker, Dickson, Ellis, Glasgow, Green, Haley, Harris of Tarrant, Harris of Dallas, Henderson, Johnson, Krier, Leedom, Lucio, Lyon, Moncrief, Montford, Parker, Ratliff, Rosson, Sibley, Sims, Tejada, Truan, Turner, Whitmire, Zaffirini.

A quorum was announced present.

The Reverend Robert J. Scott, Memorial United Methodist Church, Austin, offered the invocation as follows:

Our Father, for another day of life and opportunity we give You thanks. All we are and have are gifts from You. Your blessings flow upon us through grace and mercy, forgiving our sins and calling us to redemption.

We stand in an unbroken line of forebears who were faithful and unyielding in Your service. They lived and died at the frontiers of liberty and justice, fully trusting in a government of and by and for the people.

Never let us forget that though legislation and enforcement are vital to a just and orderly life, we are what and who we are by what we believe and practice.

Remind us often that power without responsibility corrupts.

From these chambers come the statutes upon which Texas will grant new freedoms for its citizens for personal opportunity and growth—or the kind of repression that ultimately enslaves.

Grant to these who have been chosen through the confidence of their constituents to wield the power of government, courage to be true, and vision to open new avenues for Your blessings to be the inalienable right of all our citizens.

To Your glory, and to the realization of a good life for all Texans, we make our prayer. Amen.

On motion of Senator Brooks and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

CO-SPONSOR OF HOUSE BILL 7

On motion of Senator Brooks and by unanimous consent, Senator Johnson will be shown as Co-sponsor of H.B. 7.

CO-AUTHOR OF SENATE RESOLUTION 763

On motion of Senator Montford and by unanimous consent, Senator Krier will be shown as Co-author of S.R. 763.

CO-AUTHOR OF SENATE BILL 1234

On motion of Senator Carriker and by unanimous consent, Senator Zaffirini will be shown as Co-author of S.B. 1234.

MESSAGE FROM THE HOUSE

House Chamber
May 21, 1991

HONORABLE BOB BULLOCK
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

S.B. 81, Relating to the authority of certain municipalities to enforce real property restrictions; providing a civil penalty. (As amended)

S.B. 325, Relating to certain nonprofit corporations that supply water or provide wastewater services.

S.B. 330, Relating to the supplemental compensation paid district judges in Victoria County.

S.B. 429, Relating to the continuation and composition of the Texas Board of Architectural Examiners and the board's functions regarding architects, landscape architects, and interior designers; providing a penalty. (As substituted)

S.B. 837, Relating to the regulation of the treatment of chemical dependency; providing a civil penalty. (As amended)

S.B. 853, Relating to the reimbursement of expenses for the confiscation, analysis, storage, and disposal of controlled substances by a law enforcement agency.

S.B. 1059, Relating to certain financial assistance programs of the Texas Water Development Board.

S.B. 1169, Relating to the regulation of consumer telephone calls; providing civil penalties and injunctive relief. (As substituted)

S.B. 1222, Relating to the Texas State Technical Institute.

S.B. 1274, Relating to requiring consideration of the quality and effectiveness of vocational education as part of the accreditation process.

S.B. 1491, Relating to the jurisdiction of the Wise County Court at Law.

H.B. 207, Relating to the establishment of the Texas Academy of Foreign Language and Culture.

H.B. 521, Relating to the reimbursement for travel and living expenses of certain witnesses in criminal cases.

H.B. 611, Relating to the availability of defenses to prosecution of indecency with a child, homicides, or certain assaultive offenses and to the admissibility of evidence in a criminal case relating to promiscuity.

H.B. 790, Relating to the offenses of criminal trespass on school grounds and discharge or display of a firearm on school grounds.

H.B. 826, Relating to limitations on insurance coverage for chemical dependency under certain health insurance programs.

H.B. 918, Relating to the regulation of athletic trainers.

H.B. 985, Relating to the municipal annexation of territory by general law municipalities.

H.B. 1076, Relating to the liability of the owner of a dog for certain damages caused by the dog.

H.B. 1108, Relating to proprietary school degrees.

H.B. 1195, Relating to credit in the Teacher Retirement System of Texas for military service.

H.B. 1397, Relating to the authority of the commissioners court of a county to assess a fee for a sheriff's response to a false security alarm.

H.B. 1413, Relating to competitive bidding requirements for personal property in certain school districts.

H.B. 1417, Relating to the certification of certain court reporters.

H.B. 1747, Relating to the salaries of district and appellate judges.

H.B. 1826, Relating to the establishment of a young farmer endowment program.

H.B. 1985, Relating to participation and credit in the Texas County and District Retirement System.

H.B. 2024, Relating to funding the operations of the State Board of Insurance from the general revenue fund.

H.B. 2235, Relating to environmental criminal and civil enforcement.

H.B. 2286, Relating to the sale of certain mixtures of gasoline and alcohol.

H.B. 2441, Relating to the creation of the Office of Minority Health.

H.B. 2497, Relating to the stated rate of interest on variable rate instruments.

H.B. 2653, Authorizing certain agencies and political subdivisions to establish wetlands mitigation banks and implement wetlands regulations programs.

H.B. 2802, Relating to certain duties of the Consumer Credit Commissioner.

H.B. 2831, Relating to the terms of the directors of the Sutton County Underground Water Conservation District.

H.B. 2885, Relating to county education districts, public school finance, and school staff development training.

Respectfully submitted,

BETTY MURRAY, Chief Clerk
House of Representatives

PERMISSION TO INTRODUCE BILLS AND RESOLUTIONS

Senator Brooks moved to suspend Article III, Section 5 of the Texas Constitution and Senate Rule 7.07(b) to permit the introduction of the following bills and resolutions:

S.C.R. 152

S.J.R. 46

S.B. 1615

S.B. 1616

S.B. 1617

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 553 WITH HOUSE AMENDMENT

Senator Sims called S.B. 553 from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment - Alexander

Amend S.B. 553 by substituting the following:

**A BILL TO BE ENTITLED
AN ACT**

relating to contracts and compacts for the disposal of low-level radioactive waste and the acceptance of that waste from other states.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 402.002(c), Health and Safety Code, is amended to read as follows:

(c) The purpose of this chapter is to establish the Texas Low-Level Radioactive Waste Disposal Authority with responsibility for assuring necessary disposal capability for specific categories of low-level radioactive waste ~~[generated in this state]~~.

SECTION 2. Section 402.003(4), Health and Safety Code, is amended to read as follows:

(4) "Contract operator" means a political subdivision or agency of the state or a private entity with which the authority has entered into a contract under Section 402.212.

SECTION 3. Sections 402.212(a) and (b), Health and Safety Code, are amended to read as follows:

(a) The board may contract with a political subdivision or agency of the state or a private entity to perform the overall operation of a disposal site ~~[but may not contract with a private entity to perform that operation]~~.

(b) The board by rule shall establish criteria for determining the competence of a political subdivision or agency of the state or a private entity to perform the overall operation of a disposal site.

SECTION 4. Section 402.213, Health and Safety Code, is amended to read as follows:

Sec. 402.213. **CONTRACT AUTHORITY OF BOARD.** In contracting with a contract operator, the board may:

(1) select the contract operator before it obtains the license for the disposal site so that the board may allow the contract operator to advise and consult with the board, general manager, and staff of the authority on the design and disposal plans for the site;

(2) require the contract operator to make all tests, keep all records, and prepare all reports required by licenses issued for disposal site operations;

(3) require standards of performance;

(4) require posting of a bond or other financial security by the contract operator to ensure safe operation and decommissioning of the disposal site; and

(5) establish other requirements, including operating liability requirements, necessary to assure that the disposal site is properly operated and that the public health and safety and the environment are protected.

SECTION 5. Section 402.219, Health and Safety Code, is amended by amending Subsection (a) and adding Subsections (c), (d), and (e) to read as follows:

(a) Except as provided by an interstate compact, a [★] disposal site may accept only low-level waste that is generated in this state.

(c) The state may enter into compacts with another state or several states for the disposal in this state of low-level radioactive waste only if the compact:

(1) limits the total volume of all low-level radioactive waste to be disposed of in this state from the other state or states to 20 percent of the annual average of low-level radioactive waste that the governor projects will be produced in this state from the years 1995 through 2045;

(2) gives this state full administrative control over management and operation of the disposal site;

(3) requires the other state or states to join this state in any legal action necessary to prevent states that are not members of the compact from disposing of low-level radioactive waste at the disposal site;

(4) allows this state to charge a fee for the disposal of low-level radioactive waste at the disposal site;

(5) requires the other state or states to join in any legal action involving liability from the disposal site;

(6) requires the other state or states to share the full cost of constructing the disposal site;

(7) allows this state to regulate, in accordance with federal law, the means and routes of transportation of the low-level radioactive waste in this state;

(8) requires the other state or states to pay for community assistance projects selected by the county in which the disposal site is located an amount not to exceed the lesser of \$1 million or five percent of the amount contributed toward construction as provided by Subdivision (6);

(9) is agreed to by the Texas Legislature, the legislature of the other state or states, and the United States Congress; and

(10) complies with all applicable federal law.

(d) This section does not affect the ability of this state to transfer low-level radioactive waste to another state.

(e) If this state enters into a compact with another state and the terms of the compact conflict with this section, the terms of the compact control.

SECTION 6. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read.

On motion of Senator Sims and by unanimous consent, the Senate concurred in the House amendment to S.B. 553 by a viva voce vote.

(President in Chair)

SENATE BILL 544 WITH HOUSE AMENDMENT

Senator Henderson called S.B. 544 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Amendment on Third Reading - Repp

Amend S.B. 544 on third reading in SECTION 7, Subsection (b), by striking "\$10,000" and substituting "\$3,000".

The amendment was read.

On motion of Senator Henderson and by unanimous consent, the Senate concurred in the House amendment to S.B. 544 by a viva voce vote.

SENATE BILL 798 WITH HOUSE AMENDMENTS

Senator Carriker called S.B. 798 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Committee Amendment - Robnett

Amend S.B. 798, SECTION 1, Quoted Sec. 810.001, by adding the following new Subsection (f):

"(f) Every political entity which establishes or maintains a public retirement system covered under this act shall file all reports with the State Pension Review Board required by Chapter 802, Government Code. If a political subdivision establishes a retirement program that would be a "public retirement system" within the meaning ascribed to that term by Section 801.001, Government Code, but for the fact that the program is administered by a life insurance company, the subdivision shall notify the State Pension Review Board of the establishment of the program and the name of the administering company."

Committee Amendment - Robnett

Amend S.B. 798 by striking SECTION 3 and substituting the following:

"SECTION 3. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted."

The amendments were read.

Senator Carriker moved to concur in the House amendments to S.B. 798.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 737 WITH HOUSE AMENDMENT

Senator Barrientos called S.B. 737 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Amendment - Maxey

Amend S.B. 737 as follows:

On page 8, on line 17 and line 19, strike the words "of Austin" following the words "of the City" and before "or".

On page 9, on line 4 and 5, strike the words "of Austin," following the words "of the City" and before "residents".

On page 27, on line 17, strike the words "of Austin." after the words "with the City" and amend "with the City" to "with the City."

On page 43, on line 17, SECTION 14. EMERGENCY. strike the current emergency clause and insert the following: "The importance of this legislation and the crowded conditions of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three separate days in each house be suspended, and this rule is hereby suspended."

The amendment was read.

Senator Barrientos moved to concur in the House amendment to S.B. 737.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 1053 WITH HOUSE AMENDMENTS

Senator Brooks called S.B. 1053 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Amendment - Martin

Amend S.B. 1053 as follows:

(1) At page 6, line 10, at the end of Section 61.001(8), add: "This definition does not include a beach that is not accessible by a public road or public ferry as provided in Section 61.021 of this code."

(2) At page 18, between lines 6 and 7, add a new Section 13 to the bill to read as follows:

"SECTION 13. Section 61.021, Natural Resources Code is amended to read as follows:

Sec. 61.021. AREA NOT COVERED BY SUBCHAPTER. (a) None of the provisions of this subchapter apply to beaches on islands or peninsulas that are not accessible by a public road or ferry facility for as long as the condition exists.

(b) A local government or local official may not adopt, apply, or enforce a beach access and use plan or any other provision of this subchapter within a state or national park area, wildlife refuge, or other designated state or national natural area."

Renumber the following sections of the bill accordingly.

Amendment - Holzheuser

Amend S.B. 1053 as follows:

On page 16 between lines 20 and 21 add a new SECTION 12 of the bill to read as follows and renumber subsequent sections of the bill:

SECTION 12. Subchapter B, Chapter 61, Natural Resources Code, is amended by adding Section 61.0211 to read as follows:

Sec. 61.0211. STATE OR NATIONAL PARK COVERED BY SUBCHAPTER. This subchapter applies to any island or peninsula that is a state or national park, or wildlife management area, regardless of whether the island or peninsula is accessible by public road or ferry facility.

Amendment - Wilson

Amend S.B. 1053, page 33, line 6, after "Texas Water Commission," insert "a member of the Railroad Commission of Texas".

The amendments were read.

Senator Brooks moved to concur in the House amendments to S.B. 1053.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 314 WITH HOUSE AMENDMENTS

Senator Brown called S.B. 314 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Amendment - Russell

Amend S.B. 314 by substituting the following:

**A BILL TO BE ENTITLED
AN ACT**

relating to the penalty groups of controlled substances, offenses, and civil penalties under the Texas Controlled Substances Act.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 481.102, Health and Safety Code, is amended to read as follows:

Sec. 481.102. PENALTY GROUP 1. Penalty Group 1 consists of:

(1) the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, if the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

Alfentanil;
Allylprodine;
Benzethidine;
Betaprodine;
Clonitazene;
Diampromide;
Diethylthiambutene;
Difenoxin;
Dimenoxadol;
Dimethylthiambutene;
Dioxaphetyl butyrate;
Dipipanone;
Ethylmethylthiambutene;
Etonitazene;
Etoxadine;
Furethidine;
Hydroxypethidine;
Ketobemidone;
Levophenacymorphan;
Meprodine;
Methadol;
Moramide;
Morpheridine;
Noracymethadol;
Norlevorphanol;
Normethadone;
Norpipanone;
Phenadoxone;
Phenampromide;
Phenomorphan;
Phenoperidine;
Piritramide;
Proheptazine;
Properidine;
Propiram;
Sufentanil;
Tilidine; and
Trimeperidine;

(2) the following opium derivatives, their salts, isomers, and salts of isomers, unless specifically excepted, if the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

Acetorphine;
Acetyldihydrocodeine;
Benzylmorphine;
Codeine methylbromide;
Codeine-N-Oxide;
Cyprenorphine;
Desomorphine;
Dihydromorphine;
Drotebanol;
Etorphine, except hydrochloride salt;
Heroin;
Hydromorphenol;
Methyldesorphine;
Methyldihydromorphine;
Monoacetylmorphine;
Morphine methylbromide;
Morphine methylsulfonate;
Morphine-N-Oxide;
Myrophine;
Nicocodeine;
Nicomorphine;
Normorphine;
Pholcodine; and
Thebacon;

(3) the following substances, however produced, except those narcotic drugs listed in another group:

(A) Opium and opiate, and a salt, compound, derivative, or preparation of opium or opiate, other than nalmeferene, naloxone and its salts, and naltrexone and its salts, but including:

Codeine;
Ethylmorphine;
Granulated opium;
Hydrocodone;
Hydromorphone;
Metopon;
Morphine;
Opium extracts;
Opium fluid extracts;
Oxycodone;
Oxymorphone;
Powdered opium;
Raw opium;
Thebaine; and
Tincture of opium;

(B) a salt, compound, isomer, derivative, or preparation of a substance that is chemically equivalent or identical to a substance described by Paragraph (A), other than the isoquinoline alkaloids of opium;

(C) Opium poppy and poppy straw;

(D) Cocaine, including:

(i) its salts, its optical, position, and geometric isomers, and the salts of those isomers;

(ii) coca leaves and a salt, compound, derivative, or preparation of coca leaves;

(iii) a salt, compound, derivative, or preparation of a salt, compound, or derivative that is chemically equivalent or identical to a substance described by Subparagraph (i) or (ii), other than decocainized coca leaves or extractions of coca leaves that do not contain cocaine or ecgonine;

(E) concentrate of poppy straw, meaning the crude extract of poppy straw in liquid, solid, or powder form that contains the phenanthrine alkaloids of the opium poppy; and

(F) temporary listing of substances subject to emergency scheduling by the Federal Drug Enforcement Administration [~~and any material, compound, mixture, or preparation that contains any quantity of the following substances: N,N-dimethylamphetamine (some trade or other names: N,N,alpha-trimethylbenzeneethanamine, N,N,alpha-trimethylphenethylamine); its salts, optical isomers, and salts of optical isomers];~~

(4) the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, if the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

Acetyl-alpha-methylfentanyl(N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide) [(N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide)];

Alpha-methylthiofentanyl(N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);

Alphaprodine;

Anileridine;

Beta-hydroxyfentanyl(N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-N-phenylpropanamide);

Beta-hydroxy-3-methylfentanyl;

Bezitramide;

Carfentanil;

Dihydrocodeine;

Diphenoxylate;

Fentanyl or alpha-methylfentanyl, or any other derivative of Fentanyl;

Isomethadone;

Levomethorphan;

Levorphanol;

Metazocine;

Methadone;

Methadone-Intermediate, 4-cyano-2-dimethylamino-4,

4-diphenyl butane;

3-methylfentanyl(N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide);

3-methylthiofentanyl(N-[3-methyl-1-(2-thienyl)ethyl-4-piperidyl]-N-phenylpropanamide);

Moramide-Intermediate,

2-methyl-3-morpholino-1, 1-diphenyl-propane-carboxylic acid;

Para-fluorofentanyl(N-(4-fluorophenyl)-N-[1-(2-phenylethyl)-4-piperidinyl]propanamide);

PEPAP

(1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine);

Pethidine;

Pethidine-Intermediate-A,
 4-cyano-1-methyl-4-phenylpiperidine;
 Pethidine-Intermediate-B,
 ethyl-4-phenylpiperidine-4 carboxylate;
 Pethidine-Intermediate-C,
 1-methyl-4-phenylpiperidine-4-carboxylic acid;
 Phenazocine;
 Piminodine;
 Racemethorphan;
 Racemorphan;
 Thiofentanyl(N-phenyl-N-[1-(2-thienyl)ethyl-4-
 piperidinyl]-propanamide);

(5) Lysergic acid diethylamide, including its salts, isomers, and salts of isomers;

(6) Methamphetamine, including its salts, optical isomers, and salts of optical isomers;

(7) Phenylacetone and methylamine, if possessed together with intent to manufacture methamphetamine; and

(8) Phencyclidine, including its salts.

SECTION 2. Section 481.103(a), Health and Safety Code, is amended to read as follows:

(a) Penalty Group 2 consists of:

(1) any quantity of the following hallucinogenic substances, their salts, isomers, and salts of isomers, unless specifically excepted, if the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

4-bromo-2, 5-dimethoxyamphetamine (some trade or other names: 4-bromo-2, 5-dimethoxy-alpha-methylphenethylamine; 4-bromo-2, 5-DMA);

Bufotenine (some trade and other names: 3-(beta-Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N, N-dimethylserotonin; 5-hydroxy-N, N-dimethyltryptamine; mappine);

Diethyltryptamine (some trade and other names: N, N-Diethyltryptamine, DET);

2, 5-dimethoxyamphetamine (some trade or other names: 2, 5-dimethoxy-alpha-methylphenethylamine; 2, 5-DMA);

Dimethyltryptamine (some trade and other names: DMT);

Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a U.S. Food and Drug Administration approved drug product (some trade or other names for Dronabinol: (6aR-trans)-6a,7,8,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo[b,d]pyran-1-ol [(6aR-trans)-6a,7,8,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo[b,d]pyran-1-ol]; or (-)-delta-9-(trans)-tetrahydrocannabinol);

Ethylamine Analog of Phencyclidine (some trade or other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE);

Ibogaine (some trade or other names: 7-Ethyl-6, 6, beta 7, 8, 9, 10, 12, 13-octahydro-2-methoxy-6, 9-methano-5H-pyrido [1', 2':1, 2] azepino [5, 4-b] indole; tabernanthe iboga.);

Mescaline;

5-methoxy-3, 4-methylenedioxyamphetamine
 [4-methylenedioxy amphetamine];

4-methoxyamphetamine (some trade or other names: 4-methoxy-alpha-methylphenethylamine; paramethoxyamphetamine; PMA);
1-methyl- 4-phenyl-4-propionoxypiperidine (MPPP, PMP) [~~1-methyl-4-phenyl-1,2,5,6-tetrahydro-pyridine (MPTP);~~
~~[1-methyl-4-phenyl-4-propionoxy-piperidine (MPPP, PMP)];~~
 4-methyl-2, 5-dimethoxyamphetamine (some trade and other names: 4-methyl-2, 5-dimethoxy-alpha-methylphenethylamine; "DOM"; "STP");
3,4-methylenedioxyamphetamine
 [3,4-methylene-dioxy-methamphetamine (MDMA, MDM);
 [3,4-methylenedioxy-amphetamine];
 3,4-methylenedioxy N-ethylamphetamine (Also known as N-ethyl MDA);
N-methyl-3,4-methylenedioxyamphetamine (MDMA, MDM);
Nabilone (Another name for nabilone: (SCF2+\$CF1)-trans-3-(1,1-dimethylheptyl)- 6,6a,7,8,10,10a-hexahydro-1-hydroxy-6,6-dimethyl-9H-dibenzo[b,d]pyran-9-one;
 N-ethyl-3-piperidyl benzilate;
 N-hydroxy-3,4-methylenedioxyamphetamine (Also known as N-hydroxy MDA);
 4-methylaminorex;
 N-methyl-3-piperidyl benzilate;
 Parahexyl (some trade or other names: 3-Hexyl-1-hydroxy-7, 8, 9, 10-tetrahydro-6, 6, 9-trimethyl-6H-dibenzo [b, d] pyran; Synhexyl);
 1-Phenylcyclohexylamine;
1-Piperidinocyclohexanecarbonitrile (PCC)
 [1-Piperidinocyclohexane-Carbonitrile (PCC)];
 Psilocin;
 Psilocybin;
 Pyrrolidine Analog of Phencyclidine (some trade or other names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP);
 Tetrahydrocannabinols, other than marihuana, and synthetic equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis, or [and] synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as:
 delta-1 cis or trans tetrahydrocannabinol,
 and their optical isomers;
 delta-6 cis or trans tetrahydrocannabinol,
 and their optical isomers;
 delta-3, 4 cis or trans tetrahydrocannabinol, and its optical isomers;
 compounds of these structures, regardless of numerical designation of atomic positions, since nomenclature of these substances is not internationally standardized;
 Thiophene Analog of Phencyclidine (some trade or other names: 1-[1-(2-thienyl) cyclohexyl] piperidine; 2-Thienyl Analog of Phencyclidine; TPCP, TCP);
1-[1-(2-thienyl)cyclohexyl]pyrrolidine (some trade or other names: TCPy); and
3,4,5-trimethoxyamphetamine [3,4,5-trimethoxyamphetamine];

(2) Phenylacetone (some trade or other names: Phenyl-2-propanone; P-2-P, Benzylmethyl ketone, methyl benzyl ketone); and

(3) unless specifically excepted or unless listed in another Penalty Group, a material, compound, mixture, or preparation that contains any quantity of the following substances having a potential for abuse associated with a depressant or stimulant effect on the central nervous system:

Amphetamine, its salts, optical isomers, and salts of optical isomers;

Etorphine Hydrochloride;

Fenethylline and its salts;

Mecloqualone and its salts;

Methaqualone and its salts; [and]

N-Ethylamphetamine, its salts, optical isomers, and salts of optical isomers; and

N,N-dimethylamphetamine (some trade or other names: N,N,alpha-trimethylbenzeneethanamine; N,N,alpha-trimethylphenethylamine), its salts, optical isomers, and salts of optical isomers.

SECTION 3. Section 481.104(a), Health and Safety Code, is amended to read as follows:

(a) Penalty Group 3 consists of:

(1) a material, compound, mixture, or preparation that contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:

Methylphenidate and its salts; and

Phenmetrazine and its salts;

(2) a material, compound, mixture, or preparation that contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

a substance that contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid not otherwise covered by this subsection;

a compound, mixture, or preparation containing amobarbital, secobarbital, pentobarbital, or any salt of any of these, and one or more active medicinal ingredients that are not listed in any penalty group [schedule];

a suppository dosage form containing amobarbital, secobarbital, pentobarbital, or any salt of any of these drugs, and approved by the United States Food and Drug Administration for marketing only as a suppository;

Alprazolam;

Amobarbital;

Bromazepam;

Camazepam;

Chlordiazepoxide;

Chlorhexadol;

Clobazam;

Clonazepam;

Clorazepate;

Clotiazepam;

Clozapepam;

Delorazepam;

Diazepam;

Estazolam;

Ethyl loflazepate;

isomers;
 salts of isomers;
 mixtures thereof;

Fludiazepam;
 Flunitrazepam;
 Flurazepam;
 Glutethimide;
 Halazepam;
 Haloxazolam;
 Ketazolam;
 Loprazolam;
 Lorazepam;
 Lormetazepam;
 Lysergic acid, including its salts, isomers, and salts of
 Lysergic acid amide, including its salts, isomers, and
 Mebutamate;
 Medazepam;
 [Midazolam];
 Methypylon;
 Midazolam;
 Nimetazepam;
 Nitrazepam;
 Nordiazepam;
 Oxazepam;
 Oxazolam;
 Pentazocine, its salts, derivatives, or compounds or
 Pentobarbital [Pentobarbitol];
 Pinazepam;
 Prazepam;
 Quazepam;
 Secobarbital [Secobarbitol];
 Sulfondiethylmethane;
 Sulfonethylmethane;
 Sulfonmethane;
 Temazepam;
 Tetrazepam; [and]
 Tiletamine and zolazepam in combination, and its salts
 (some trade or other names for a tiletamine-zolazepam combination product:
 Telazol, for tiletamine: 2-(ethylamino)-2-(2-thienyl)-cyclohexanone, and for
 zolazepam: 4-(2-fluorophenyl)-6, 8-dihydro-1,3,8,-trimethylpyrazolo- [3,4-c] (1,4)-d
 diazepin-7(1H)-one, flupyrzapon); and
 Triazolam;
 (3) Nalorphine;
 (4) a material, compound, mixture, or preparation containing limited
 quantities of the following narcotic drugs, or any of their salts:
 not more than 1.8 grams of codeine, or any of its salts,
 per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal
 or greater quantity of an isoquinoline alkaloid of opium;
 not more than 1.8 grams of codeine, or any of its salts,
 per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more
 active, nonnarcotic ingredients in recognized therapeutic amounts;
 not more than 300 milligrams of dihydrocodeinone, or
 any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit,
 with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

not more than 300 milligrams of dihydrocodeinone, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

not more than 1.8 grams of dihydrocodeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

not more than 300 milligrams of ethylmorphine, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

not more than 50 milligrams of morphine, or any of its salts, per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts; and

not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit;

(5) a material, compound, mixture, or preparation that contains any quantity of the following substances:

Barbital;
Chloral betaine;
Chloral hydrate;
Ethchlorvynol;
Ethinamate;
~~[Methohexital;]~~
Meprobamate;
~~Methohexital;~~
Methylphenobarbital (Mephobarbital);
Paraldehyde;
Petrichloral; and
Phenobarbital;

(6) Peyote, unless unharvested and growing in its natural state, meaning all parts of the plant classified botanically as *Lophophora*, whether growing or not, the seeds of the plant, an extract from a part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or extracts;

(7) unless listed in another penalty group, a material, compound, mixture, or preparation that contains any quantity of the following substances having a stimulant effect on the central nervous system, including the substance's salts, optical, position, or geometric isomers, and salts of the substance's isomers, if the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

Benzphetamine;
Cathine [(+)-norpseudoephedrine];
Chlorphentermine;
Clortermine;
Diethylpropion;
Fencamfamin [Femcamfamin];
Fenfluramine;
Femproporex;
Mazindol;
Mefenorex;
Pemoline (including organometallic complexes and

their chelates);

Phendimetrazine;
 Phentermine;
 Pipradrol; and
 SPA [(-)-1-dimethylamino-1,2-diphenylethane]; and

(8) unless specifically excepted or unless listed in another penalty group, a material, compound, mixture, or preparation that contains any quantity of the following substance, including its salts:

Dextropropoxyphene (Alpha-(+)-4-dimethylamino-1, 2-diphenyl-3-methyl-2-propionoxybutane).

SECTION 4. Section 481.128, Health and Safety Code, is amended to read as follows:

Sec. 481.128. OFFENSE AND CIVIL PENALTY: COMMERCIAL MATTERS. (a) A registrant or dispenser commits an offense if the registrant or dispenser knowingly or intentionally:

(1) distributes, delivers, administers, or dispenses a controlled substance in violation of Sections 481.070-481.074;

(2) manufactures a controlled substance not authorized by the person's registration or distributes or dispenses a controlled substance not authorized by the person's registration to another registrant or other person;

(3) refuses or fails to make, keep, or furnish a record, report, notification, order form, statement, invoice, or information required by this chapter [or required by rules adopted by the director];

(4) prints, manufactures, possesses, or produces a triplicate prescription form without the approval of the Department of Public Safety;

(5) delivers or possesses a counterfeit triplicate prescription;

(6) refuses an entry into a premise for an inspection authorized by this chapter; [or]

(7) refuses or fails to return a triplicate prescription form as required by Section 481.075(h); or

(8) refuses or fails to make, keep, or furnish a record, report, notification, order form, statement, invoice, or information required by a rule adopted before June 1, 1991, by the director.

(b) If the registrant or dispenser knowingly or intentionally refuses or fails to make, keep, or furnish a record, report, notification, order form, statement, invoice, or information required by a rule or a rule amendment adopted on or after June 1, 1991, by the director, the registrant or dispenser is liable to the state for a civil penalty of not more than \$5,000 for each act.

(c) If the registrant or dispenser negligently fails to make, keep, or furnish a record, report, notification, order form, statement, invoice, or information required by a rule or a rule amendment adopted on or after June 1, 1991, by the director, the registrant or dispenser is liable to the state for a civil penalty of not more than \$1,000 for each act.

(d) An offense under Subsection (a) [this section] is a felony of the second degree, unless it is shown on the trial of a defendant that the defendant has previously been convicted under Subsection (a) [this section], in which event the offense is a felony of the first degree.

(e) [(c)] If a person negligently commits an act that would otherwise be an offense under Subsection (a) [this section], the person is liable to the state for a civil penalty of not less than \$5,000 or more than \$10,000 for each act.

(f) A [The] district attorney of the county where the act occurred may file suit in district court in that county to collect a civil penalty under this section, [of Travis County] or the district attorney of Travis County or the attorney general may file suit in district court in Travis County to collect the penalty.

SECTION 5. (a) The change in law made to Section 481.128, Health and Safety Code, by Section 4 of this Act applies only to an act committed on or after the effective date of Section 4 of this Act. For purposes of this section, an act is committed before the effective date of Section 4 of this Act if any element of the act is committed before that date.

(b) An act committed before the effective date of Section 4 of this Act is covered by the law in effect when the act was committed, and the former law is continued in effect for this purpose.

SECTION 6. This Act takes effect immediately, except that Sections 1, 2, and 3 take effect September 1, 1991.

SECTION 7. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force according to its terms, and it is so enacted.

Amendment - Von Dohlen

Amend C.S.S.B. 314 by striking all below the enacting clause and substituting the following:

SECTION 1. Section 481.102, Health and Safety Code, is amended to read as follows:

Sec. 481.102. PENALTY GROUP 1. Penalty Group 1 consists of:

(1) the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, if the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

Alfentanil;
Allylprodine;
Benzethidine;
Betaprodine;
Clonitazene;
Diampromide;
Diethylthiambutene;
Difenoxin;
Dimenoxadol;
Dimethylthiambutene;
Dioxaphetyl butyrate;
Dipipanone;
Ethylmethylthiambutene;
Etonitazene;
Etoxeridine;
Furethidine;
Hydroxypethidine;
Ketobemidone;
Levophenacymorphan;
Meprodine;
Methadol;
Moramide;
Morpheridine;
Noracymethadol;
Norlevorphanol;
Normethadone;
Norpipanone;

Phenadoxone;
Phenampromide;
Phenomorphane;
Phenoperidine;
Piritramide;
Proheptazine;
Properidine;
Propiram;
Sufentanil;
Tilidine; and
Trimeperidine;

(2) the following opium derivatives, their salts, isomers, and salts of isomers, unless specifically excepted, if the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

Acetorphine;
Acetyldihydrocodeine;
Benzylmorphine;
Codeine methylbromide;
Codeine-N-Oxide;
Cyprenorphine;
Desomorphine;
Dihydromorphine;
Drotebanol;
Etorphine, except hydrochloride salt;
Heroin;
Hydromorphenol;
Methyldesorphine;
Methyldihydromorphine;
Monoacetylmorphine;
Morphine methylbromide;
Morphine methylsulfonate;
Morphine-N-Oxide;
Myrophine;
Nicocodeine;
Nicomorphine;
Normorphine;
Pholcodine; and
Thebacon;

(3) the following substances, however produced, except those narcotic drugs listed in another group:

(A) Opium and opiate, and a salt, compound, derivative, or preparation of opium or opiate, other than nalmeferene, naloxone and its salts, and naltrexone and its salts, but including:

Codeine;
Ethylmorphine;
Granulated opium;
Hydrocodone;
Hydromorphone;
Metopon;
Morphine;
Opium extracts;
Opium fluid extracts;
Oxycodone;

Oxymorphone;
Powdered opium;
Raw opium;
Thebaine; and
Tincture of opium;

(B) a salt, compound, isomer, derivative, or preparation of a substance that is chemically equivalent or identical to a substance described by Paragraph (A), other than the isoquinoline alkaloids of opium;

(C) Opium poppy and poppy straw;

(D) Cocaine, including:

(i) its salts, its optical, position, and geometric isomers, and the salts of those isomers;

(ii) coca leaves and a salt, compound, derivative, or preparation of coca leaves;

(iii) a salt, compound, derivative, or preparation of a salt, compound, or derivative that is chemically equivalent or identical to a substance described by Subparagraph (i) or (ii), other than decocainized coca leaves or extractions of coca leaves that do not contain cocaine or ecgonine;

(E) concentrate of poppy straw, meaning the crude extract of poppy straw in liquid, solid, or powder form that contains the phenanthrine alkaloids of the opium poppy; and

(F) temporary listing of substances subject to emergency scheduling by the Federal Drug Enforcement Administration [~~and any material, compound, mixture, or preparation that contains any quantity of the following substances: N,N-dimethylamphetamine (some trade or other names: N,N,alpha-trimethylbenzeneethanamine; N,N,alpha-trimethylphenethylamine); its salts, optical isomers, and salts of optical isomers];~~

(4) the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, if the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

Acetyl-alpha-methylfentanyl(N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide) [(N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide)];

Alpha-methylthiofentanyl(N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);

Alphaprodine;

Anileridine;

Beta-hydroxyfentanyl(N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-N-phenylpropanamide);

Beta-hydroxy-3-methylfentanyl;

Bezitramide;

Carfentanil;

Dihydrocodeine;

Diphenoxylate;

Fentanyl or alpha-methylfentanyl, or any other derivative of Fentanyl;

Isomethadone;

Levomethorphan;

Levorphanol;

Metazocine;

Methadone;

Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane;

3-methylfentanyl(N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide);
 3-methylthiofentanyl(N-[3-methyl-1-(2-thienyl)ethyl-4-piperidyl]-N-phenylpropanamide);
 Moramide-Intermediate,
 2-methyl-3-morpholino-1, 1-diphenyl-propane-carboxylic acid;
 Para-fluorofentanyl(N-(4-fluorophenyl)-N-[1-(2-phenylethyl)-4-piperidinyl]propanamide);
 PEPAP
 (1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine);
 Pethidine;
 Pethidine-Intermediate-A,
 4-cyano-1-methyl-4-phenylpiperidine;
 Pethidine-Intermediate-B,
 ethyl-4-phenylpiperidine-4 carboxylate;
 Pethidine-Intermediate-C,
 1-methyl-4-phenylpiperidine-4-carboxylic acid;
 Phenazocine;
 Piminodine;
 Racemethorphan;
 Racemorphan;
 Thiofentanyl(N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide);

(5) Lysergic acid diethylamide, including its salts, isomers, and salts of isomers;

(6) Methamphetamine, including its salts, optical isomers, and salts of optical isomers;

(7) Phenylacetone and methylamine, if possessed together with intent to manufacture methamphetamine; and

(8) Phencyclidine, including its salts.

SECTION 2. Subsection (a), Section 481.103, Health and Safety Code, is amended to read as follows:

(a) Penalty Group 2 consists of:

(1) any quantity of the following hallucinogenic substances, their salts, isomers, and salts of isomers, unless specifically excepted, if the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

4-bromo-2, 5-dimethoxyamphetamine (some trade or other names: 4-bromo-2, 5-dimethoxy-alpha-methylphenethylamine; 4-bromo-2, 5-DMA);

Bufotenine (some trade and other names: 3-(beta-Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N, N-dimethylserotonin; 5-hydroxy-N, N-dimethyltryptamine; mappine);

Diethyltryptamine (some trade and other names: N, N-Diethyltryptamine, DET);

2, 5-dimethoxyamphetamine (some trade or other names: 2, 5-dimethoxy-alpha-methylphenethylamine; 2, 5-DMA);

Dimethyltryptamine (some trade and other names: DMT);

Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a U.S. Food and Drug Administration approved drug product (some trade or other [other] names for Dronabinol: (a6aR-trans)-6a,7,8,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo[b,d]pyran-1-ol [(a6aR-trans)-6a,7,8,10a-tetrahydro-

6,6,9-trimethyl-3-pentyl-6H-dibenzo [b,d]pyran-1-ol;] or
(-)-delta-9-(trans)-tetrahydrocannabinol);

Ethylamine Analog of Phencyclidine (some trade or other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE);

Ibogaine (some trade or other names: 7-Ethyl-6, 6, beta 7, 8, 9, 10, 12, 13-octahydro-2-methoxy-6, 9-methano-5H-pyrido [1', 2':1, 2] azepino [5, 4-b] indole; tabernanthe iboga.);

Mescaline;

5-methoxy-3, 4-methylenedioxy amphetamine;

4-methoxyamphetamine (some trade or other names: 4-methoxy-alpha-methylphenethylamine; paramethoxyamphetamine; PMA);

1-methyl- 4-phenyl-4-propionoxypiperidine (MPPP, PPMP) [1-methyl-4-phenyl-1,2,5,6-tetrahydro-pyridine (MPTP);

[1-methyl-4-phenyl-4-propionoxy-piperidine (MPPP, PPMP)];

4-methyl-2, 5-dimethoxyamphetamine (some trade and other names: 4-methyl-2, 5-dimethoxy-alpha-methylphenethylamine; "DOM"; "STP");

3,4-methylenedioxy methamphetamine (MDMA, MDM) [3,4-methylene-dioxy methamphetamine (MDMA, MDM)];

3,4-methylenedioxy amphetamine;

3,4-methylenedioxy N-ethylamphetamine (Also known as N-ethyl MDA);

Nabilone (Another name for nabilone: (\$CF2+\$CF1)-trans-3-(1,1-dimethylheptyl)- 6,6a,7,8,10,10a-hexahydro-1-hydroxy-6,6-dimethyl-9H-dibenzo[b,d]pyran-9-one;

N-ethyl-3-piperidyl benzilate;

N-hydroxy-3,4-methylenedioxyamphetamine (Also known as N-hydroxy MDA);

4-methylaminorex;

N-methyl-3-piperidyl benzilate;

Parahexyl (some trade or other names: 3-Hexyl-1-hydroxy-7, 8, 9, 10-tetrahydro-6, 6, 9-trimethyl-6H-dibenzo [b, d] pyran; Synhexyl);

1-Phenylcyclohexylamine;

1-Piperidinocyclohexanecarbonitrile (PCC) [1-Piperidinocyclohexane-Carbonitrile (PCC)];

Psilocin;

Psilocybin;

Pyrrolidine Analog of Phencyclidine (some trade or other names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP);

Tetrahydrocannabinols, other than marihuana, and synthetic equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis, or [and] synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as:

delta-1 cis or trans tetrahydrocannabinol, and their optical isomers;

delta-6 cis or trans tetrahydrocannabinol, and their optical isomers;

delta-3, 4 cis or trans tetrahydrocannabinol, and its optical isomers;

compounds of these structures, regardless of numerical designation of atomic positions, since nomenclature of these substances is not internationally standardized;

Thiophene Analog of Phencyclidine (some trade or other names: 1-[1-(2-thienyl) cyclohexyl] piperidine; 2-Thienyl Analog of Phencyclidine; TPCP, TCP);

1-[1-(2-thienyl)cyclohexyl]pyrrolidine (some trade or other names: TCPy); and

3,4,5-trimethoxy amphetamine;

(2) Phenylacetone (some trade or other names: Phenyl-2-propanone; P-2-P, Benzylmethyl ketone, methyl benzyl ketone); and

(3) unless specifically excepted or unless listed in another Penalty Group, a material, compound, mixture, or preparation that contains any quantity of the following substances having a potential for abuse associated with a depressant or stimulant effect on the central nervous system:

Amphetamine, its salts, optical isomers, and salts of optical isomers;

Etorphine Hydrochloride;

Fenethylamine and its salts;

Mecloqualone and its salts;

Methaqualone and its salts; [and]

N-Ethylamphetamine, its salts, optical isomers, and salts of optical isomers; and

N,N-dimethylamphetamine (some trade or other names: N,N,alpha-trimethylbenzeneethanamine; N,N,alpha-trimethylphenethylamine), its salts, optical isomers, and salts of optical isomers.

SECTION 3. Subsection (a), Section 481.104, Health and Safety Code, is amended to read as follows:

(a) Penalty Group 3 consists of:

(1) a material, compound, mixture, or preparation that contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:

Methylphenidate and its salts; and

Phenmetrazine and its salts;

(2) a material, compound, mixture, or preparation that contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

a substance that contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid not otherwise covered by this subsection;

a compound, mixture, or preparation containing amobarbital, secobarbital, pentobarbital, or any salt of any of these, and one or more active medicinal ingredients that are not listed in any penalty group [schedule];

a suppository dosage form containing amobarbital, secobarbital, pentobarbital, or any salt of any of these drugs, and approved by the United States Food and Drug Administration for marketing only as a suppository;

Alprazolam;

Amobarbital;

Bromazepam;

Camazepam;

Chlordiazepoxide;

Chlorhexadol;

Clobazam;

Clonazepam;

- Clorazepate;
 Clotiazepam;
 Cloxazolam;
 Delorazepam;
 Diazepam;
 Estazolam;
 Ethyl loflazepate;
 Fludiazepam;
 Flunitrazepam;
 Flurazepam;
 Glutethimide;
 Halazepam;
 Haloxazolam;
 Ketazolam;
 Loprazolam;
 Lorazepam;
 Lormetazepam;
 Lysergic acid, including its salts, isomers, and salts of
 isomers;
 Lysergic acid amide, including its salts, isomers, and
 salts of isomers;
 Mebutamate;
 Medazepam;
 [Midazolam];
 Methypylon;
 Midazolam;
 Nimetazepam;
 Nitrazepam;
 Nordiazepam;
 Oxazepam;
 Oxazolam;
 Pentazocine, its salts, derivatives, or compounds or
 mixtures thereof;
 Pentobarbital [Pentobarbitol];
 Pinazepam;
 Prazepam;
 Quazepam;
 Secobarbital [Secobarbitol];
 Sulfondiethylmethane;
 Sulfonethylmethane;
 Sulfonmethane;
 Temazepam;
 Tetrazepam; [and]
 Tiletamine and zolazepam in combination, and its salts,
 (some trade or other names for a tiletamine-zolazepam combination product:
 Telazol, for tiletamine: 2-(ethylamino)-2-(2-thienyl)-cyclohexanone, and for
 zolazepam: 4-(2-fluorophenyl)-6, 8-dihydro-1,3,8-trimethylpyrazolo- [3,4-e](1,4)-d
 diazepin-7(1H)-one, flupyrzapon); and
 Triazolam;
 (3) Nalorphine;
 (4) a material, compound, mixture, or preparation containing limited
 quantities of the following narcotic drugs, or any of their salts:
 not more than 1.8 grams of codeine, or any of its salts,
 per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal
 or greater quantity of an isoquinoline alkaloid of opium;

not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

not more than 300 milligrams of dihydrocodeinone, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

not more than 300 milligrams of dihydrocodeinone, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

not more than 1.8 grams of dihydrocodeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

not more than 300 milligrams of ethylmorphine, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

not more than 50 milligrams of morphine, or any of its salts, per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts; and

not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit;

(5) a material, compound, mixture, or preparation that contains any quantity of the following substances:

Barbital;
Chloral betaine;
Chloral hydrate;
Ethchlorvynol;
Ethinamate;
~~[Methohexital];~~
Meprobamate;
Methohexital;
Methylphenobarbital (Mephobarbital);
Paraldehyde;
Petrichloral; and
Phenobarbital;

(6) Peyote, unless unharvested and growing in its natural state, meaning all parts of the plant classified botanically as *Lophophora*, whether growing or not, the seeds of the plant, an extract from a part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or extracts;

(7) unless listed in another penalty group, a material, compound, mixture, or preparation that contains any quantity of the following substances having a stimulant effect on the central nervous system, including the substance's salts, optical, position, or geometric isomers, and salts of the substance's isomers, if the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

Benzphetamine;
Cathine [(+)-norpseudoephedrine];
Chlorphentermine;
Clortermine;

Diethylpropion;
 Fencamfamin [Femcamfamin];
 Fenfluramine;
 Fenproporex [Femproporex];
 Mazindol;
 Mefenorex;
 Pemoline (including organometallic complexes and
 their chelates);

Phendimetrazine;
 Phentermine;
 Pipradrol; and
 SPA [(-)-1-dimethylamino-1,2-diphenylethane]; [and]
 (8) unless specifically excepted or unless listed in another penalty
 group, a material, compound, mixture, or preparation that contains any quantity
 of the following substance, including its salts:

Dextropropoxyphene (Alpha-(+)-4-dimethylamino-1,
 2-diphenyl-3-methyl-2-propionoxybutane); and

(9) any human growth hormone or any of the following anabolic
 steroids, or any isomer, ester, salt, or derivative of the following that acts in the same
 manner on the human body:

Boldenone;
Chlorotestosterone;
Clostebol;
Dehydrochlormethyltestosterone;
Dihydrotestosterone;
Drostanolone;
Ethylestrenol;
Fluoxymesterone;
Formebolone;
Mesterolone;
Methandienone;
Methandranone;
Methandriol;
Methandrostenolone;
Methenolone;
Methyltestosterone;
Mibolerone;
Nandrolone;
Norethandrolone;
Oxandrolone;
Oxymesterone;
Oxymetholone;
Stanolone;
Stanozolol;
Testolactone;
Testosterone; and
Trenbolone.

SECTION 4. Section 481.105, Health and Safety Code, is amended to read
 as follows:

Sec. 481.105. PENALTY GROUP 4. Penalty Group 4 consists of:

(1) a compound, mixture, or preparation containing limited
 quantities of any of the following narcotic drugs that includes one or more
 nonnarcotic active medicinal ingredients in sufficient proportion to confer on the
 compound, mixture, or preparation valuable medicinal qualities other than those
 possessed by the narcotic drug alone:

not more than 200 milligrams of codeine per 100 milliliters or per 100 grams;

not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams;

not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams;

not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;

not more than 15 milligrams of opium per 29.5729 milliliters or per 28.35 grams; and

not more than 0.5 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit;

(2) unless specifically excepted or unless listed in another penalty group, a material, compound, mixture, or preparation containing the narcotic drug Buprenorphine or its salts; and

(3) ~~any human growth hormone or any of the following anabolic steroids, or any isomer, ester, salt, or derivative of the following that acts in the same manner on the human body:~~

~~[Clostebol;
[Dehydrochloromethyltestosterone;
[Ethylestrenol;
[Fluoxymesterone;
[Mesterolone;
[Methandienone;
[Methandrostenolone;
[Methenolone;
[Methyltestosterone;
[Nandrolone;
[Norethandrolone;
[Oxandrolone;
[Oxymesterone;
[Oxymetholone;
[Stanozolol; and
[Testosterone; and~~

~~[(4)] unless specifically exempted or excluded or unless listed in another penalty group, any material, compound, mixture, or preparation that contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:~~

~~Propylhexedrine; and
Pyrovalerone.~~

SECTION 5. Section 481.128, Health and Safety Code, is amended to read as follows:

Sec. 481.128. OFFENSE AND CIVIL PENALTY: COMMERCIAL MATTERS. (a) A registrant or dispenser commits an offense if the registrant or dispenser knowingly or intentionally:

(1) distributes, delivers, administers, or dispenses a controlled substance in violation of Sections 481.070-481.074;

(2) manufactures a controlled substance not authorized by the person's registration or distributes or dispenses a controlled substance not authorized by the person's registration to another registrant or other person;

(3) refuses or fails to make, keep, or furnish a record, report, notification, order form, statement, invoice, or information required by this chapter ~~[or required by rules adopted by the director];~~

(4) prints, manufactures, possesses, or produces a triplicate prescription form without the approval of the Department of Public Safety;

(5) delivers or possesses a counterfeit triplicate prescription;

(6) refuses an entry into a premise for an inspection authorized by this chapter; [or]

(7) refuses or fails to return a triplicate prescription form as required by Section 481.075(h); or

(8) refuses or fails to make, keep, or furnish a record, report, notification, order form, statement, invoice, or information required by a rule adopted before June 1, 1991, by the director.

(b) If the registrant or dispenser knowingly or intentionally refuses or fails to make, keep, or furnish a record, report, notification, order form, statement, invoice, or information required by a rule or a rule amendment adopted on or after June 1, 1991, by the director, the registrant or dispenser is liable to the state for a civil penalty of not more than \$5,000 for each act.

(c) If the registrant or dispenser negligently fails to make, keep, or furnish a record, report, notification, order form, statement, invoice, or information required by a rule or a rule amendment adopted on or after June 1, 1991, by the director, the registrant or dispenser is liable to the state for a civil penalty of not more than \$1,000 for each act.

(d) An offense under Subsection (a) [this section] is a felony of the second degree, unless it is shown on the trial of a defendant that the defendant has previously been convicted under Subsection (a) [this section], in which event the offense is a felony of the first degree.

(e) [(c)] If a person negligently commits an act that would otherwise be an offense under Subsection (a) [this section], the person is liable to the state for a civil penalty of not less than \$5,000 or more than \$10,000 for each act.

(f) A [The] district attorney of the county where the act occurred may file suit in district court in that county to collect a civil penalty under this section, [of Travis County] or the district attorney of Travis County or the attorney general may file suit in district court in Travis County to collect the penalty.

SECTION 6. (a) The change in law made to Section 481.128, Health and Safety Code, by Section 5 of this Act applies only to an act committed on or after the effective date of Section 5 of this Act. For purposes of this section, an act is committed before the effective date of Section 5 of this Act if any element of the act is committed before that date.

(b) An act committed before the effective date of Section 5 of this Act is covered by the law in effect when the act was committed, and the former law is continued in effect for this purpose.

SECTION 7. This Act takes effect immediately, except that Sections 1, 2, 3, and 4 take effect September 1, 1991.

SECTION 8. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force according to its terms, and it is so enacted.

The amendments were read.

Senator Brown moved that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on S.B. 314 before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Brown, Chair; Sims, Armbrister, Brooks, Sibley.

CAPITOL PHYSICIAN

Senator Armbrister was recognized and presented Dr. Barbara Conner of Hallettsville as the "Doctor for the Day."

The Senate welcomed Dr. Conner and thanked her for her participation in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians.

SENATE BILL 323 WITH HOUSE AMENDMENT

Senator Green called S.B. 323 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Amendment - Stiles

Amend S.B. 323 as follows:

(1) On page 11, between lines 9 and 10, insert the following:

(e) A public retirement system is not required to provide the board with an actuarial analysis within the required period under Subsection (c) or (d) if the system submits to the board a written certification prepared by the system's actuary stating:

(1) that an adequate actuarial analysis cannot be provided by the system within the required period;

(2) the reason why an actuarial analysis cannot be provided by the system within the required period; and

(3) a date agreed to by the system and the board by which the actuarial analysis can be provided by the system.

(2) On page 11, line 10, strike "(e)" and substitute "(f)".

(3) On page 11, strike lines 14-16 and substitute the following:

(g) The public retirement system may reimburse the board's costs incurred in preparing an actuarial analysis under Subsection (f) if the system determines that the reimbursement:

(1) is not prohibited by Article XVI, Section 67, of the Texas Constitution; and

(2) does not endanger the qualification of the system under Section 401(a) of the Internal Revenue Code, 26 U.S.C. Section 401.

(4) On page 11, line 17, strike "(g)" and substitute "(h)".

(5) On page 11, line 25, strike "(h)" and substitute "(i)".

(6) On page 12, line 3, strike "(i)" and substitute "(j)".

(7) On page 13, strike lines 13-16 and substitute the following:

(c) If the board prepares a requested report or analysis under Subsection (b), the state-financed public retirement system may reimburse the board's costs incurred in preparing the requested report or analysis if the system determines that the reimbursement:

(1) is not prohibited by Article XVI, Section 67, of the Texas Constitution; and

(2) does not endanger the qualification of the system under Section 401(a) of the Internal Revenue Code, 26 U.S.C. Section 401.

(8) On page 14, between lines 21 and 22, insert the following:

(i) A state-financed public retirement system is not required to provide the board with a requested report or analysis within the required period or deadline under this section if the system submits to the board a written certification prepared by the system's actuary stating:

(1) that an adequate report or analysis cannot be provided by the system within the required period or deadline;

(2) the reason why the report or analysis cannot be provided by the system within the required period or deadline; and

(3) a date agreed to by the system and the board by which the report or analysis can be provided by the system.

(9) On page 14, line 22, strike "(i)" and substitute "(j)".

The amendment was read.

Senator Green moved that the Senate do not concur in the House amendment, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on S.B. 323 before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Green, Chair; Whitmire, Leedom, Zaffirini, Tejeda.

(Senator Armbrister in Chair)

COMMITTEE SUBSTITUTE HOUSE BILL 1207 ON SECOND READING

On motion of Senator Brooks and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 1207, Relating to the requirement for a conservation permit to use land under the control of the Parks and Wildlife Department; providing a penalty.

The bill was read second time and was passed to third reading by a viva voce vote.

COMMITTEE SUBSTITUTE HOUSE BILL 1207 ON THIRD READING

Senator Brooks moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that C.S.H.B. 1207 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

SENATE BILL 847 ON SECOND READING

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 847, Relating to requiring certain services for hearing impaired students at the Southwest Collegiate Institute for the Deaf and at the Texas State Technical Institute.

The bill was read second time.

Senator Montford offered the following amendment to the bill:

Floor Amendment No. 1

Amend S.B. 847 as follows:

(1) Insert a new SECTION 3 to read as follows:

SECTION 3. Subchapter B, Chapter 13, Education Code, is amended by adding Section 13.050 to read as follows:

Sec. 13.050. WRITTEN EXAMINATIONS FOR HEARING-IMPAIRED PROFESSIONALS IN THE FIELD OF EDUCATION. (a) The State Board of Education may not administer a written examination to determine the competence or level of performance of an education professional who is hearing impaired unless the examination has been field tested to determine its appropriateness, reliability, and validity as applied to and minimum acceptable performance scores for persons who are hearing impaired.

(b) The examinations to which this section applies include examinations authorized in Sections 13.032(e) and 13.316 of this code.

(c) A hearing impaired education professional is exempt from taking a written examination for a period ending on the first anniversary of the date on which the board determines, on the basis of appropriate field tests, that the examination complies with the standards specified in Subsection (a) of this section. On application to the board, the board shall issue a temporary exemption certificate to a person entitled to an exemption under this subsection.

(d) In this section:

(1) "Hearing impaired" means hearing that is nonfunctional, with or without a hearing aid.

(2) "Reliability" means the extent to which an experiment, test, or measuring procedure yields the same results on repeated trials.

(3) "Validity" means being:

(A) well-grounded or justifiable;

(B) relevant and meaningful;

(C) correctly derived from premises or inferences; and

(D) supported by objective truth or generally accepted

authority.

(2) Renumber SECTION 3 as SECTION 4.

(3) Add the following SECTION 5:

SECTION 5. Section 3 of this Act takes effect September 1, 1991.

(4) Renumber SECTION 4 as SECTION 6.

(5) Delete "from and after its passage" and substitute in lieu thereof "according to its terms" in the emergency clause.

The amendment was read and was adopted by a viva voce vote.

Senator Montford offered the following amendment to the bill:

Floor Amendment No. 2

Amend S.B. 847 by adding a new Section _____ and renumbering subsequent sections, as follows:

Section _____. Notwithstanding the authority granted by this Act, no state general revenue may be appropriated for costs related to the implementation of this

Act during the fiscal biennium beginning on September 1, 1991, unless expressly authorized by the general appropriations act.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Zaffirini and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment by a viva voce vote.

SENATE BILL 847 ON THIRD READING

Senator Zaffirini moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that S.B. 847 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

(President in Chair)

SENATE BILL 863 ON SECOND READING

On motion of Senator Lucio and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 863, Relating to certain civil and criminal penalties for violations of provisions of the Tax Code.

The bill was read second time and was passed to engrossment by a viva voce vote.

SENATE BILL 863 ON THIRD READING

Senator Lucio moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that S.B. 863 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

COMMITTEE SUBSTITUTE

SENATE BILL 1001 ON SECOND READING

On motion of Senator Montford and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 1001, Relating to the administration, powers, duties, and composition of the Department of Information Resources and the procedures for contracts between certain governmental entities and private consultants.

The bill was read second time.

Senator Montford offered the following amendment to the bill:

Amend C.S.S.B. 1001 as follows:

(1) In SECTION 6 of the bill, strike the existing Subsection (a) of proposed Section 9B and substitute the following:

(a) A state agency shall respond to the department's requests for information and requests for proposals relating to a material modification of an existing or

proposed interagency project, interagency use of a common application, or other interagency use of information resources technologies.

(2) In SECTION 13 of the bill, strike the existing proposed Subsection (c) of Section 18 and substitute the following:

(c) ~~If the department finds that the proposed acquisition is consistent with the appropriate plan and plan amendments, or if the department does not issue the notification of its finding of inconsistency on or before the 30th day after the date that the department receives the specifications for the proposed acquisition, the acquisition may be made:~~

~~[(d)]~~ The department by rule may establish procedures to exempt certain projects ~~[procurements]~~ from the requirements of this section and to expedite the requirements of this section for certain projects ~~[procurements]~~. The exempted projects ~~[procurements]~~ shall include technologies that are acquired through contracts and grants by an institution of higher education as defined by Section 61.003, Education Code, for instruction or research purposes.

(3) In SECTION 14 of the bill, add the following as a new Subsection (e) to proposed Section 18A:

(e) This section does not apply to a contract or agreement among institutions of higher education with a common governing board if the governing board has adopted rules providing for governing board review and approval of such contracts and agreements. In this subsection, "institution of higher education" and "governing board" have the meanings assigned by Section 61.003, Education Code.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Montford and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment by a viva voce vote.

COMMITTEE SUBSTITUTE SENATE BILL 1001 ON THIRD READING

Senator Montford moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that C.S.S.B. 1001 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 134 ON SECOND READING

On motion of Senator Dickson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 134, Relating to the qualifications and compensation of presiding judges of administrative judicial regions.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 134 ON THIRD READING

Senator Dickson moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that H.B. 134 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

MESSAGE FROM THE HOUSE

House Chamber
May 21, 1991

HONORABLE BOB BULLOCK
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

S.C.R. 149, Requesting the governor to return **S.B. 333** to the Senate for further consideration.

Respectfully submitted,
BETTY MURRAY, Chief Clerk
House of Representatives

HOUSE BILL 1770 ON SECOND READING

On motion of Senator Lucio and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1770, Relating to volunteer services for the benefit of the Parks and Wildlife Department.

The bill was read second time.

Senator Lucio offered the following amendment to the bill:

Floor Amendment No. 1

Amend **H.B. 1770** as follows:

On page 1, line 9 add only on state land parks or department facilities after the word "department".

The amendment was read and was adopted by a viva voce vote.

(Senator Haley in Chair)

Senator Armbrister offered the following amendment to the bill:

Floor Amendment No. 2

Amend **H.B. 1770** as follows:

In Section 1(d), lines 18 and 19, strike the language following the word "expend" and insert the words "funds appropriated to the Department from dedicated funding sources for:"

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Lucio and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

HOUSE BILL 1770 ON THIRD READING

Senator Lucio moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **H.B. 1770** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1453 ON SECOND READING**

On motion of Senator Brooks and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 1453, Relating to the regulation of certain clinical laboratory practitioners; providing for a criminal penalty and denial, suspension, or revocation of certification; making an appropriation.

The bill was read second time.

Senator Brooks offered the following amendment to the bill:

Amend **C.S.S.B. 1453** on page 7, lines 33 and 34, **SECTION 17**, by striking "by the advisory committee as provided" and inserting "under" in lieu thereof.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Brooks and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1453 ON THIRD READING**

Senator Brooks moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **C.S.S.B. 1453** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

SENATE BILL 1573 ON SECOND READING

On motion of Senator Lyon and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 1573, Relating to creation of a state grant writing team in the Office of State-Federal Relations.

The bill was read second time and was passed to engrossment by a viva voce vote.

SENATE BILL 1573 ON THIRD READING

Senator Lyon moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **S.B. 1573** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

**MOTION TO PLACE COMMITTEE SUBSTITUTE
SENATE BILL 1513 ON SECOND READING**

Senator Barrientos moved to suspend the regular order of business to take up **C.S.S.B. 1513** on its second reading and passage to engrossment.

C.S.S.B. 1513, relating to benefits for and compensation of certain state employees.

On motion of Senator Barrientos and by unanimous consent, the motion to suspend the regular order of business was withdrawn.

**COMMITTEE SUBSTITUTE
HOUSE BILL 319 ON SECOND READING**

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 319, Relating to the areas of operation of certain foreign motor carriers operating in this state.

The bill was read second time and was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 319 ON THIRD READING**

Senator Zaffirini moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **C.S.H.B. 319** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 1486 ON SECOND READING

On motion of Senator Brooks and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1486, Relating to access to criminal history record information on employees, applicants, and volunteers who would be placed in direct contact with persons with mental illness or persons with mental retardation.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 1486 ON THIRD READING

Senator Brooks moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **H.B. 1486** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

HOUSE BILL 1757 ON SECOND READING

On motion of Senator Brooks and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1757, Relating to the powers, procedures, and financing of the Texas Low-Level Radioactive Waste Disposal Authority.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 1757 ON THIRD READING

Senator Brooks moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **H.B. 1757** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

GUESTS PRESENTED

Senator Haley was recognized and introduced a group of high school seniors from Joaquin.

The Senate welcomed these students.

**COMMITTEE SUBSTITUTE
SENATE BILL 1513 ON SECOND READING**

On motion of Senator Barrientos and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 1513, Relating to benefits for and compensation of certain state employees.

The bill was read second time.

(Senator Sims in Chair)

Senator Harris of Dallas offered the following amendment to the bill:

Amend **C.S.S.B. 1513** by deleting Article III, Part III (page 14, lines 11 through 69) in its entirety.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Barrientos and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1513 ON THIRD READING**

Senator Barrientos moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **C.S.S.B. 1513** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 356 ON SECOND READING**

On motion of Senator Green and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 356, Relating to the abatement of public nuisances in counties.

The bill was read second time.

Senator Green offered the following amendment to the bill:

Amend **C.S.H.B. 356** Section 2 by striking 342.002 and substituting in lieu thereof 343.002.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Green and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

HOUSE BILL 1367 ON SECOND READING

On motion of Senator Krier and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1367, Relating to requiring the Texas Department of Human Services to provide permanent molar sealants to certain children receiving Medicaid assistance.

The bill was read second time.

Senator Brooks offered the following amendment to the bill:

Floor Amendment No. 1

Amend **H.B. 1367** by striking everything below the enacting clause and by substituting in lieu thereof the following:

SECTION 1. Section 32.024, Human Resources Code, is amended by adding Subsections (r) and (s) to read as follows:

(r) The department, from funds otherwise appropriated to the department for the early and periodic screening, diagnosis, and treatment program, shall provide to a child who is 14 years of age or younger permanent molar sealants as dental service under that program as follows:

(1) sealant shall be applied only to the occlusal buckle and lingual pits and fissures of a permanent molar within four years of its eruption;

(2) teeth to be sealed must be free of proximal caries and free of previous restorations on the surface to be sealed;

(3) if a second molar is the prime tooth to be sealed, a nonrestored first molar may be sealed at the same sitting, if the fee for the first molar sealing is no more than half the usual sealant fee;

(4) the sealing of premolars and primary molars will not be reimbursed; and

(5) replacement sealants will not be reimbursed.

(s) The department shall, in its rules governing the Early and Periodic Screening, Diagnosis and Treatment program, revise the periodicity schedule to allow for periodic visits at least as often as the frequency recommended by the American Academy of Pediatrics and allow for interperiodic screens without prior approval when there are indications that it is medically necessary.

SECTION 2. Section 131.0042, Human Resources Code, is amended to read as follows:

Sec. 131.0042. CREATION; DUTIES. (a) The Commission on Maternal and Child Health [~~Advisory Committee~~] is created to replace the Maternal and Child Health Advisory Committee, to advise the Texas Department of Human Services, the Texas Department of Health, and the legislature on issues concerning services to pregnant women and children in order to maximize a coordinated system of services to eligible pregnant women and children throughout the state.

(b) The commission [~~committee~~] shall:

(1) monitor the delivery of maternal and child health services through programs including Medicaid, the Maternal and Infant Health Improvement Act (Article 4447y, Vernon's Texas Civil Statutes), the Early and Periodic Screening, Diagnosis and Treatment program, Title V Maternal and Child Health Bureau Services, early childhood intervention services, the Chronically Ill and Disabled Children program, family planning programs, and the Women, Infant and Children's program;

(2) monitor the coordination of programs delivered by the Texas Department of Health and the Texas Department of Human Services to avoid unnecessary duplication of services;

(3) recommend improvements in programs to the Texas Department of Human Services, the Texas Department of Health, and the legislature as appropriate;

(4) review all related proposed legislation and regulations to determine their impact on access, delivery, and coordination of services; [and]

(5) develop a single, comprehensive maternal and child health system in Texas by 1996;

(6) prepare a basic set of standards for all federal and state maternal and child health programs by December 1992. These standards should delineate the essential components of a maternal and child health care system and would include elements such as services, reimbursement, eligibility, and accessibility;

(7) compare all existing program policies to the standards and recommend steps to be taken to bring all programs into compliance; and

(8) report to the Texas Board [~~Department~~] of Human Services, the Texas Board [~~Department~~] of Health, and the legislature on at least an annual basis concerning maternal and child health services, including the populations served, gaps in coverage and services to each population, and the efficiency of the coordination of these services throughout the state.

(c) The commission [~~committee~~] is composed of:

(1) one member of the Texas Board of Human Services or its designated representative selected by the board;

(2) one member of the Texas Board of Health or its designated representative selected by the board;

(3) one member of the State Board of Education or its designated representative [~~Texas Health and Human Services Coordinating Council~~] selected by the board [~~council~~];

(4) five members appointed by the governor:

(A) one physician licensed to practice medicine in this state who is board-certified in obstetrics and who has been actively engaged in the practice of obstetrics for at least five years;

(B) one physician licensed to practice medicine in this state who is board-certified in family medicine and who has been actively engaged in family practice for at least five years;

(C) one physician licensed to practice medicine in this state who is board-certified in pediatrics and who has been actively engaged in the practice of pediatrics for at least five years;

(D) one professional nurse registered by the Board of Nurse Examiners who has experience in providing neonatal care and who has been actively engaged in the practice of professional nursing for at least five years; and

(E) one professional nurse registered by the Board of Nurse Examiners who has experience in providing care to mothers and infants and who has been actively engaged in the practice of professional nursing for at least five years;

(5) one member of the senate and four [five] public members, one who is a consumer of a program for pregnant women and children, and one who is a representative of the insurance industry appointed by the lieutenant governor; and

(6) one member of the house of representatives and four [five] additional public members, one who is a consumer of a program for pregnant women and children, and one who is a representative of the business community appointed by the speaker of the house of representatives.

(d) The chair and vice-chair of the commission [committee] shall be selected from and by the members of the commission [committee].

(e) Commission [Committee] members shall serve for staggered six-year terms, with the terms of five members expiring August 31 of each odd-numbered year. Members originally appointed to the commission [committee] shall draw lots to determine their initial terms so that five commission [committee] members are appointed every odd-numbered year.

(f) A vacancy on the commission [committee] is filled in the same manner as other appointments to the commission [committee].

(g) A member of the commission [committee] is entitled to reimbursement for expenses incurred in performing duties under this Act. The reimbursement may not exceed the amount specified in the General Appropriations Act for travel and per diem allowances for state employees.

(h) The commission [committee] may make rules, regulations, and bylaws not inconsistent with this Act as may be necessary for the governing of its own proceedings and the performance of its duties.

(i) The commission [committee] is administratively attached to the Texas Department of Health, and both the Texas Department of Health and the Texas Department of Human Services [department] shall provide staff support to the commission [committee].

(j) The commission [committee] shall execute a contract with the Texas Department of Health under which the department reimburses the commission [committee] for any expenses incurred by the commission [committee] in performing its duties under this Act. The department shall reimburse the commission [committee] from funds appropriated to the department to administer the Maternal and Child Health program.

(k) The Texas Department of Health and the Texas Department of Human Services shall cooperate with the commission [committee] by making resource staff available to the commission [committee] when information relating to the agencies' programs is needed.

SECTION 3. Sections 32.003, 32.004, 32.006, 32.007, 32.009, and 32.010, Health and Safety Code, are amended to read as follows:

Sec. 32.003. MATERNAL AND INFANT HEALTH IMPROVEMENT SERVICES PROGRAM. (a) The board may establish a maternal and infant health improvement services program in the department to:

(1) provide comprehensive maternal and infant health improvement services and ancillary services to eligible women and infants who do not qualify for the medical assistance program; and

(2) develop local maternal and child health delivery systems.

(b) If the program is established, the board shall adopt rules relating to:

(1) the type, amount, and duration of services to be provided under this chapter; and

(2) the process for making grants to local communities based on the determination by each community [the department] of the services needed in the [each service] area.

(c) [If budgetary limitations exist, the board by rule shall establish a system of priorities relating to the types of services provided, geographic areas covered, or classes of individuals eligible for services.

[(d)] The board shall adopt the rules according to a statewide determination of the need for services.

(d) [(e)] In structuring the program and adopting rules, the department and board shall attempt to maximize the amount of federal matching funds available for maternal and infant health improvement services by, among other things, encouraging providers to obtain federally qualified health center status while continuing to meet the purposes of the program [serve targeted populations].

(e) The [(f) If necessary, the] board by rule may coordinate services and other parts of the program with the medical assistance program and other related maternal and child health programs. However, the board may not adopt rules relating to the services under the medical assistance program [either] program that would[:

[(1) cause the program established under this chapter not to conform with federal law to the extent that federal matching funds would not be available; or

[(2)] affect the status of the Texas Department of Human Services as the single state agency to administer the medical assistance program.

Sec. 32.004. PROGRAM SERVICES. (a) Except as limited by this section [Section 32.003], the department shall use existing private, private non-profit, or other public providers based in the community to the greatest extent possible [develop an integrated framework for the equitable provision of services throughout the state and shall use existing public and private health, transportation, and education resources].

(b) To prevent duplication of services, the board and the department should assure that providers coordinate the services authorized by this chapter with existing federal, state, and local programs.

(c) [The board and the department are encouraged to:

[(1) design and use a plan of areawide administration for providing the authorized services;

[(2) seek and receive advice and other assistance from areawide advisory committees in planning and conducting the program; and

[(3) use local public and private resources as providers of services.

[(d)] The board and the department [program] may authorize the provision of [provide] the following services [to eligible individuals]:

(1) maternal and infant health improvement services, including:

(A) comprehensive prenatal and perinatal care;

(B) obstetrical consultation services;

(C) preventive, health, medical, and facility intrapartum care;

(D) neonatal intensive care;

(E) follow-up services for eligible infants; and

(F) [emergency] medical transportation necessary to secure appropriate perinatal care;

(2) ancillary services;

(3) health education and promotion services, including:

(A) organized continuing education for health care workers, emphasizing perinatal education;

(B) public health education to provide information relating to the importance and availability of perinatal care; and

(C) nutrition education;

(4) a special program of preventive, health, medical, and facility care and health education services for adolescents that concentrates on adolescent pregnancy and pregnancy prevention; and

(5) a special program of pregnancy prevention services for women receiving benefits for two or more pregnancies, including the availability of family planning services provided by the medical assistance program, unless the provision of those services would cause the program established under this chapter to be out of compliance with federal law so that federal matching funds would not be available to the state.

(6) other services which are determined by the local community to be needed for the development of a coordinated maternal and child health delivery system.

Sec. 32.006. ADMINISTRATION. [(a)] The board shall adopt rules necessary to administer this chapter, and the department shall administer the program in accordance with board rules.

[(b) The department shall prescribe the design and content of all necessary forms used in the program:]

Sec. 32.007. PROVISION OF PROGRAM SERVICES BY DEPARTMENT. (a) [The board shall adopt rules relating to the department's determination of whether program services are to be provided through a network of approved providers, directly by the department, or by a combination of the department and approved providers as prescribed by this section:

[(b) The department shall provide services only as prescribed by board rule:

[(c)] The department may provide maternal and infant health improvement services directly to eligible individuals or in a community to the extent that the board determines that existing private or public providers or other resources in the service area are unavailable or unable to provide those services. In making that determination, the department shall:

(1) consider [initially determine] the [proposed] need for services in the service area;

(2) notify potential [existing] private and public grantees [providers] and other resources in the service area of the department's initial determination of need and the services the department proposes to provide directly to eligible individuals;

(3) provide existing private and public providers and other resources in the service area a reasonable opportunity to comment on the department's initial determination of need and the availability and ability of existing private or public providers or other resources in the service area to satisfy the need;

(4) provide existing private and public providers and other resources in the service area a reasonable opportunity to obtain approval as providers under the program; and

(5) eliminate, reduce, or otherwise modify the proposed scope or type of services the department proposes to provide directly to the extent that those services may be provided by existing private or public providers or other resources in the service area that meet the board's criteria for approval as providers.

(b) [(d)] The department shall maintain a continuing review of the services it provides directly to the eligible women and infants who participate in the program. At least annually, the department shall review and determine the continued need for the services it provides directly in each service area, in

accordance with the methods and procedures used to make the initial determination as prescribed by this section.

(c) [(e)] If after a review the board determines that a private or public provider or other resource is available to provide services and has been approved as a grantee [provider], the department shall, immediately after approving the provider, eliminate, reduce, or modify the scope and type of services the department provides directly to the extent the private or public provider or other resource is available and able to provide the service.

Sec. 32.009. INDIVIDUAL REFERRAL AND APPLICATION FOR SERVICES. (a) The board shall adopt rules relating to application procedures for admission to the program.

(b) ~~[An applicant must be referred to the program by a physician, facility, public health clinic, community health center, certified nurse midwife, lay midwife, medical social worker, or other source acceptable to the board.]~~

[(c)] An applicant must complete or cause to be completed an application form prescribed by the department.

(c) [(d)] The application form must be accompanied by:

(1) a statement by the applicant, or by the person who has a legal obligation to provide for the applicant's support, that the applicant or person is financially unable to pay for all or part of the cost of the necessary services; and

(2) any other assurances from the applicant or any documentary evidence required by the board that is necessary to support the applicant's eligibility.

(d) [(e)] Except as permitted by program rules, the department may not provide services or authorize payment for services delivered to an individual before the eligibility date assigned to the individual by the department.

(e) [(f)] The department shall determine or cause to be determined the eligibility date in accordance with board rules. The date may not be later than the date on which the individual submits a properly completed application form and all supporting documents required by this chapter or by board rules.

Sec. 32.010. ELIGIBILITY FOR SERVICES. (a) The board shall adopt rules relating to eligibility criteria for an individual to receive services under the program, including health, medical, and financial criteria. The department shall determine or cause to be determined an applicant's eligibility in accordance with this chapter and board rules.

(b) Except as necessary to coordinate the program with the medical assistance program, and except as modified by other rules adopted under this chapter, the board by rule shall provide that to be eligible to receive services[:

[(1)] the individual must be a resident of this state[;

[(2)] ~~at least one licensed physician must certify to the department that the individual meets the board's health or medical criteria; and~~

[(3)] ~~the certifying physician must have a reasonable expectation that the services provided by the program will prevent or reduce the probability of:~~

[(A)] ~~maternal, fetal, or infant death;~~

[(B)] ~~the complications of pregnancy, including handicapping conditions of infants that are associated with the complications of pregnancy; or~~

[(C)] ~~adolescent pregnancy].~~

SECTION 4. Subsection (b), Section 32.022, Human Resources Code, is amended to read as follows:

(b) The board shall appoint the committee in compliance with the requirements of the federal agency administering medical assistance, and the committee shall provide for review and approval of all medical policies set through utilization review programs. The appointments shall provide for a balanced

representation of the general public, providers, consumers, and other persons, state agencies, or groups with knowledge of and interest in the committee's field of work.

SECTION 5. This Act takes effect September 1, 1991.

SECTION 6. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read and was adopted by a viva voce vote.

Senator Montford offered the following amendment to the bill:

Floor Amendment No. 2

Amend H.B. 1367 by adding a new Section 4 and renumbering subsequent sections, as follows:

Section 4. Notwithstanding the authority granted by this Act, no state general revenue may be appropriated for costs related to the implementation of this Act during the fiscal biennium beginning on September 1, 1991, unless expressly authorized by the general appropriations act.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Krier and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

HOUSE BILL 1367 ON THIRD READING

Senator Krier moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that H.B. 1367 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2004 ON SECOND READING**

On motion of Senator Carriker and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 2004, Relating to the licensing of rehabilitation facilities as special hospitals.

The bill was read second time.

Senator Brooks offered the following amendment to the bill:

Amend C.S.H.B. 2004 by adding new SECTIONS 2 and 3 to read as follows and by renumbering the subsequent section accordingly:

"SECTION 2. Chapter 222, Health and Safety Code, is amended by adding a new Section 222.027 to read as follows:

Sec. 222.027. PRIVATE MENTAL HOSPITAL LICENSING AUTHORITY NOT AFFECTED. (a) Section 222.024 does not affect the authority of the Texas Department of Mental Health and Mental Retardation to implement and enforce the provisions of Article 5547-88, V.T.C.S., relating to private mental hospitals, in response to a complaint concerning the conditions of a private hospital

or the care or treatment of patients at a mental hospital, or in response to evidence that the hospital no longer meets requirements of Texas licensure.

(b) The Texas Department of Mental Health and Mental Retardation and the Texas Department of Health shall enter into a memorandum of understanding concerning the inspection and investigation of private mental hospitals in order to avoid duplicative inspection surveys or investigations for compliance with the licensure requirements and standards.

SECTION 3. Section 248.003, Health and Safety Code, as added by Section 115, S.B. 404, Acts of the 72nd Legislature, Regular Session, 1991, is amended to read as follows:

Sec. 248.003. EXEMPTIONS. This chapter does not apply to:

- (1) a home health agency required to be licensed under Chapter 142;
- (2) a person required to be licensed under Chapter 241 (Texas Hospital Licensing Law);
- (3) an institution required to be licensed under Chapter 242;
- (4) an ambulatory surgical center required to be licensed under Chapter 243 (Texas Ambulatory Surgical Center Licensing Act);
- (5) a birthing center required to be licensed under Chapter 244 (Texas Birthing Center Licensing Act);
- (6) a facility required to be licensed under Chapter 245 (Texas Abortion Facility Reporting and Licensing Act); or
- (7) a residential care facility, including a child care institution, foster group home, foster family home, and child-placing agency, for children in foster care or other residential care who are under the conservatorship of the Texas Department of Human Services; or
- (8) a person providing medical or nursing care or services under a license or permit issued under other state law."

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Carriker and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

COMMITTEE SUBSTITUTE HOUSE BILL 2004 ON THIRD READING

Senator Carriker moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that C.S.H.B. 2004 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 2153 ON SECOND READING

On motion of Senator Dickson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 2153, Relating to the civil liability of Parks and Wildlife Department and Parks and Wildlife Commission members and employees.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 2153 ON THIRD READING

Senator Dickson moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **H.B. 2153** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

HOUSE BILL 2161 ON SECOND READING

On motion of Senator Harris of Dallas and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 2161, Relating to the financing of heavy commercial vehicles.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 2161 ON THIRD READING

Senator Harris of Dallas moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **H.B. 2161** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

COMMITTEE SUBSTITUTE**HOUSE BILL 2494 ON SECOND READING**

On motion of Senator Armbrister and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 2494, Relating to commercial fishing and the wholesale and retail fish businesses.

The bill was read second time and was passed to third reading by a viva voce vote.

COMMITTEE SUBSTITUTE**HOUSE BILL 2494 ON THIRD READING**

Senator Armbrister moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **C.S.H.B. 2494** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

HOUSE BILL 2811 ON SECOND READING

On motion of Senator Parker and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 2811, Relating to regulating boat or motor manufacturers, distributors, and dealers.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 2811 ON THIRD READING

Senator Parker moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that H.B. 2811 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

HOUSE BILL 2841 ON SECOND READING

On motion of Senator Montford and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 2841, Relating to aid to local law enforcement agencies, prosecutors, and court personnel for the implementation of telecommunications networks capable of sharing information necessary for criminal investigations and prosecutions.

The bill was read second time.

Senator Montford offered the following committee amendment to the bill:

Amend **H.B. 2841**, in Section 1 of the bill, in Article 60.02(k), between "by the criminal justice division" and the comma, by inserting "at a time and in a manner determined by the division".

The committee amendment was read and was adopted by a viva voce vote.

On motion of Senator Montford and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

HOUSE BILL 2841 ON THIRD READING

Senator Montford moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **H.B. 2841** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE
SENATE BILL 888 ON THIRD READING**

Senator Johnson moved that the regular order of business be suspended and that **C.S.S.B. 888** be placed on its third reading and final passage.

C.S.S.B. 888, Relating to the provision by the state of surety bonds for historically underutilized businesses.

The motion prevailed by the following vote: Yeas 20, Nays 9.

Yeas: Barrientos, Brooks, Carriker, Dickson, Ellis, Glasgow, Harris of Dallas, Henderson, Johnson, Lucio, Lyon, Moncrief, Parker, Ratliff, Rosson, Sims, Tejada, Truan, Whitmire, Zaffirini.

Nays: Armbrister, Bivins, Brown, Haley, Harris of Tarrant, Krier, Leedom, Montford, Sibley.

Absent: Green, Turner.

The bill was read third time and was finally passed by a viva voce vote.

RECORD OF VOTES

Senators Armbrister, Bivins, Brown, Haley, Harris of Tarrant, Krier, Leedom, Montford and Sibley asked to be recorded as voting "Nay" on the final passage of the bill.

COMMITTEE SUBSTITUTE

SENATE JOINT RESOLUTION 29 ON SECOND READING

On motion of Senator Johnson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.J.R. 29, Proposing a constitutional amendment authorizing the legislature to provide for the issuance of general revenue bonds to provide surety bonds for historically underutilized businesses.

The resolution was read second time and was passed to engrossment by a viva voce vote.

RECORD OF VOTES

Senators Bivins and Harris of Tarrant asked to be recorded as voting "Nay" on the passage of the resolution to engrossment.

COMMITTEE SUBSTITUTE

SENATE JOINT RESOLUTION 29 ON THIRD READING

Senator Johnson moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **C.S.S.J.R. 29** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 25, Nays 5.

Yeas: Armbrister, Barrientos, Brooks, Carriker, Dickson, Ellis, Glasgow, Haley, Harris of Dallas, Henderson, Johnson, Krier, Lucio, Lyon, Moncrief, Montford, Parker, Ratliff, Rosson, Sims, Tejada, Truan, Turner, Whitmire, Zaffirini.

Nays: Bivins, Brown, Harris of Tarrant, Leedom, Sibley.

Absent: Green.

The resolution was read third time and was passed by the following vote: Yeas 25, Nays 5. (Same as previous roll call)

(Senator Brooks in Chair)

COMMITTEE SUBSTITUTE

SENATE BILL 1020 ON SECOND READING

Senator Glasgow asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

C.S.S.B. 1020, Relating to the regulation of employee leasing entities; creating offenses and providing civil and criminal penalties; appropriating fees.

There was objection.

Senator Glasgow then moved to suspend the regular order of business and take up C.S.S.B. 1020 for consideration at this time.

The motion prevailed by the following vote: Yeas 27, Nays 2.

Yeas: Armbrister, Barrientos, Bivins, Brooks, Carriker, Dickson, Ellis, Glasgow, Haley, Harris of Tarrant, Henderson, Johnson, Krier, Leedom, Lucio, Lyon, Moncrief, Montford, Ratliff, Rosson, Sibley, Sims, Tejeda, Truan, Turner, Whitmire, Zaffirini.

Nays: Brown, Harris of Dallas.

Absent: Green, Parker.

The bill was read second time.

Senator Glasgow offered the following amendment to the bill:

Floor Amendment No. 1

Amend C.S.S.B. 1020, line 19 on page 22 by deleting "outside" and inserting the following: "as a separate fund in".

The amendment was read and was adopted by a viva voce vote.

Senator Glasgow offered the following amendment to the bill:

Floor Amendment No. 2

Amend C.S.S.B. 1020 as follows:

Section 1. DEFINITIONS

(6) [Delete "." and add at the end] or a public company or any other person directly or indirectly controlled by a public company or any other person in which such public company, directly or indirectly, owns a substantial interest.

(17) "Public company" means a corporation whose shares are listed on the New York Stock Exchange and whose total assets exceed \$1,000,000,000.00.

(18) "substantial interest" means any direct or indirect ownership interest in excess of 33 1/3%, including ownership through subsidiaries and affiliates of a public company.

Section 2. LICENSE REQUIRED

(a) A person may not engage in the business of providing employee leasing services, or operate as an employee leasing entity in this state unless the person holds a license issued under this Act.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Glasgow and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment by a viva voce vote.

RECORD OF VOTE

Senator Harris of Dallas asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

**COMMITTEE SUBSTITUTE
SENATE BILL 1020 ON THIRD READING**

Senator Glasgow moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that C.S.B. 1020 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 2.

Yeas: Armbrister, Barrientos, Bivins, Brooks, Carriker, Dickson, Ellis, Glasgow, Haley, Harris of Tarrant, Henderson, Johnson, Krier, Leedom, Lucio, Lyon, Moncrief, Montford, Ratliff, Rosson, Sibley, Sims, Tejeda, Truan, Turner, Whitmire, Zaffirini.

Nays: Brown, Harris of Dallas.

Absent: Green, Parker.

The bill was read third time and was passed by a viva voce vote.

RECORD OF VOTE

Senator Harris of Dallas asked to be recorded as voting "Nay" on the final passage of the bill.

SENATE BILL 982 ON SECOND READING

On motion of Senator Sibley and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 982, Relating to the eligibility for deferred adjudication of a person who has been previously convicted or has previously received deferred adjudication.

The bill was read second time.

Senator Sibley offered the following amendment to the bill:

Floor Amendment No. 1

Amend SECTION 1 of **S.B. 982** by deleting subsection (c) (3) (page 2, line 4) and inserting the following in lieu thereof:

"Except with the consent of the attorney for the state and the defendant, a court may not grant deferred adjudication to a person who has previously received a conviction, probation or deferred adjudication."

The amendment was read and was adopted by a viva voce vote.

Senator Sibley offered the following amendment to the bill:

Floor Amendment No. 2

Amend SECTION 1 of **S.B. 982** by amending subsection (d) (page 2, line 8) by deleting the phrase, "previously convicted of any offense or".

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Sibley and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment by a viva voce vote.

SENATE BILL 982 ON THIRD READING

Senator Sibley moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that S.B. 982 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

SENATE BILL 836 ON SECOND READING

On motion of Senator Dickson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 836, Relating to the organization and regulation of state savings banks; providing penalties.

The bill was read second time.

Senator Dickson offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend S.B. 836 as follows:

1. Page 70, line 8: Section 7.06 shall be amended to read as follows:

Sec. 7.06. **LIMITATION ON LOANS TO ONE BORROWER.** Subject to the rules of the commissioner and the finance commission, no savings bank may make loans to any one borrower to a greater extent than a savings association is permitted under section 5(u) of the Home Owners' Loan Act (12 U.S.C. 1464(u)).

2. Page 77, line 9: Subsection 7.16(9) is amended to add the word "and" after the semicolon.

3. Page 77, line 12: Subsection 7.16(10) is amended to delete the phrase "; and" following the word "commission" and adding a period at the end of the subsection.

4. Page 77, line 13: Subsection 7.16(11) is deleted in its entirety.

The committee amendment was read and was adopted by a viva voce vote.

Senator Dickson offered the following committee amendment to the bill:

Committee Amendment No. 2

Amend S.B. 836 as follows:

1. Page 77, line 13: Insert a new Section 7.17 to read as follows:

Sec. 7.17. **INVESTMENT WITHIN SAVINGS BANK'S LOCAL SERVICE AREA.** (a) Each savings bank shall maintain in its portfolio at least 15 percent of its local service area deposits in the following categories of assets and investments:

(1) first and second lien residential mortgage loans or foreclosed residential mortgage loans originated from within the savings bank's local service area;

(2) home improvement loans;

(3) interim residential construction loans;

(4) mortgage-backed securities secured by loans from within the savings bank's local service area; and

(5) loans for community reinvestment purposes.

(b) The commissioner and the finance commission shall adopt rules to implement this section. The rules shall include definitions of a savings bank's local service area and the categories of loans and investments described in Subsection (a) of this section. The rules shall also authorize the commissioner to grant certain limited-term waivers from the requirements of Subsection (a) if quality loans in the categories described in that subsection are not available from within the savings bank's local service area.

The committee amendment was read and was adopted by a viva voce vote.

Senator Dickson offered the following committee amendment to the bill:

Committee Amendment No. 3

Amend S.B. 836 as follows:

1. Page 74, line 22: Add the following to Section 7.13 at the end of the existing language:

A savings bank may charge any borrower the reasonable value of services rendered in connection with the making of a consumer loan. Expenses necessary and proper for the protection of the lender, and actually incurred in connection with the making of the loan may be charged.

The committee amendment was read and was adopted by a viva voce vote.

Senator Dickson offered the following committee amendment to the bill:

Committee Amendment No. 4

Amend S.B. 836 as follows:

1. Page 71, line 6: Line 6 shall be amended to read as follows:

bank, or any service corporation, operating subsidiary, or finance subsidiary of a savings bank may not invest in stock or equity securities unless the

The committee amendment was read and was adopted by a viva voce vote.

Senator Dickson offered the following amendment to the bill:

Floor Amendment No. 1

Amend S.B. 836 by adding to Section 2.3 on page 4, line 47 the following sentence:

In the event FIRREA or other federal regulations require an asset test for federal savings banks different than the Internal Revenue Service test referred to in this section, a state savings bank chartered under this act shall be required to meet the higher of the tests.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Dickson and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment by a viva voce vote.

RECORD OF VOTE

Senator Green asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

RECORD OF VOTE

Senator Rosson asked to be recorded as voting "Present-not voting" on the passage of the bill to engrossment.

(President Pro Tempore Glasgow in Chair)

SENATE BILL 836 ON THIRD READING

Senator Dickson moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that S.B. 836 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1, Present-not voting 1.

Yeas: Armbrister, Barrientos, Bivins, Brooks, Brown, Carriker, Dickson, Ellis, Glasgow, Haley, Harris of Tarrant, Harris of Dallas, Henderson, Johnson, Krier, Leedom, Lucio, Lyon, Moncrief, Montford, Parker, Ratliff, Sibley, Sims, Tejada, Truan, Turner, Whitmire, Zaffirini.

Nays: Green.

Present-not voting: Rosson.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 1, Present-not voting 1. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
HOUSE BILL 356 ON THIRD READING**

Senator Green moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that C.S.H.B. 356 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 4.

Yeas: Armbrister, Barrientos, Bivins, Brooks, Brown, Carriker, Dickson, Ellis, Glasgow, Green, Haley, Harris of Dallas, Henderson, Johnson, Krier, Lucio, Lyon, Moncrief, Parker, Ratliff, Rosson, Sibley, Tejada, Truan, Turner, Whitmire, Zaffirini.

Nays: Harris of Tarrant, Leedom, Montford, Sims.

The bill was read third time.

Senator Green offered the following amendment to the bill:

Amend C.S.H.B. 356 as follows:

On page 1, line 42, add "or indoor" following "outdoor".

By unanimous consent, the amendment was read and was adopted by a viva voce vote.

On motion of Senator Green and by unanimous consent, the caption was again amended to conform to the body of the bill as amended.

The bill as amended was finally passed by a viva voce vote.

RECORD OF VOTES

Senators Harris of Tarrant, Leedom, Montford and Sims asked to be recorded as voting "Nay" on the final passage of the bill.

**VOTE ON FINAL PASSAGE OF
HOUSE BILL 1079 RECONSIDERED**

On motion of Senator Armbrister and by unanimous consent, the vote by which H.B. 1079 was finally passed was reconsidered.

Question—Shall H.B. 1079 be finally passed?

Senator Armbrister offered the following amendment to the bill:

Amend H.B. 1079 as follows:

On page 5, line 15, subsection (k) after the word “property”, add the language “, and, if a property owner has paid his entire assessment in accordance with subsection (l) below, the road district shall refund to that property owner the difference between his original assessment and any re-assessment.”

On page 5, line 16, subsection (l) after the word “assessment”, add the language “, a supplemental assessment, or a re-assessment.”

On page 5, line 21, subsection (l) after the word “assessment”, add the language “, a supplemental assessment, or a re-assessment.”

On page 5, line 22, subsection (l) after the word “assessment”, add the language “, a supplemental assessment, or a re-assessment.”

On page 5, line 23, subsection (l) after the word “assessment”, add the language “, a supplemental assessment, or a re-assessment.”

On page 5, line 24, subsection (l) after the word “assessment”, add the language “, a supplemental assessment, or a re-assessment.”

On page 5, line 26, subsection (l) after the word “lien.”, add the sentence “A lien for a supplemental assessment or re-assessment is effective whether or not the property has been released from any prior lien under this section.”

On page 5, line 26, subsection (l) after the word “assessment”, add the language “, a supplemental assessment, or a re-assessment.”

On page 6, line 3, subsection (m) after the word “parcel.”, add the sentence “Upon any supplemental assessment or re-assessment, the road district shall provide a certificate of assessment reflecting any change in the value of the original assessment.”

By unanimous consent, the amendment was read and was adopted by a viva voce vote.

On motion of Senator Armbrister and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was again passed by the following vote: Yeas 31, Nays 0.

**CONFERENCE COMMITTEE REPORT
ON HOUSE BILL 1313**

Senator Lyon submitted the following Conference Committee Report:

Austin, Texas
May 21, 1991

Honorable Bob Bullock
President of the Senate

Honorable Gibson D. “Gib” Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 1313** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

LYON
ZAFFIRINI
PARKER
SIBLEY

On the part of the Senate

LINEBARGER
MARTIN
ECKELS
KAMEL

On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

SENATE RESOLUTION ON FIRST READING

Article III, Section 5 of the Texas Constitution and Senate Rule 7.07(b) having been suspended, the following resolution was introduced, read first time and referred to the Committee indicated:

S.C.R. 152 by Bivins Administration
Informing the Department of Energy of interest in the expansion of Pantex through a reconfiguration of nuclear weapons system.

HOUSE BILL 2670 REREFERRED

On motion of Senator Brooks and by unanimous consent, **H.B. 2670** was withdrawn from the Committee on Jurisprudence and rereferred to the Committee on Health and Human Services.

SENATE RULE 11.11 SUSPENDED

On motion of Senator Brooks and by unanimous consent, Senate Rule 11.11 was suspended in order that the Committee on Health and Human Services might consider the following bills today:

H.B. 2224
H.B. 2327
H.B. 2581
H.B. 1621
H.B. 1412

SENATE RULE 11.11 SUSPENDED

On motion of Senator Glasgow and by unanimous consent, Senate Rule 11.11 was suspended in order that the Committee on State Affairs might consider the following bills tomorrow:

H.B. 1559
H.B. 1739
H.B. 2625

SENATE RULE 11.11 SUSPENDED

On motion of Senator Bivins and by unanimous consent, Senate Rule 11.11 was suspended in order that the Committee on Administration might consider **S.C.R. 152** today.

SENATE BILL 565 RECOMMITTED

On motion of Senator Sims and by unanimous consent, S.B. 565 was recommitted to the Committee on Natural Resources.

SENATE RULE 11.11 SUSPENDED

On motion of Senator Sims and by unanimous consent, Senate Rule 11.11 was suspended in order that the Committee on Natural Resources might meet to consider S.B. 565 today.

SENATE RULE 11.11 SUSPENDED

On motion of Senator Whitmire and by unanimous consent, Senate Rule 11.11 was suspended in order that the Committee on Intergovernmental Relations might consider H.B. 2803 today.

BILLS AND RESOLUTIONS SIGNED

The President Pro Tempore announced the signing in the presence of the Senate, after the captions had been read, the following enrolled bills and resolutions:

H.B. 37	H.B. 693	H.B. 2049
H.B. 43	H.B. 776	H.B. 2063
H.B. 54	H.B. 817	H.B. 2102
H.B. 63	H.B. 897	H.B. 2103
H.B. 148	H.B. 925	H.B. 2271
H.B. 173	H.B. 954	H.B. 2322
H.B. 180	H.B. 989	H.B. 2353
H.B. 219	H.B. 1061	H.B. 2383
H.B. 233	H.B. 1066	H.B. 2465
H.B. 264	H.B. 1192	H.B. 2489
H.B. 338	H.B. 1219	H.B. 2503
H.B. 355	H.B. 1333	H.B. 2553
H.B. 376	H.B. 1340	H.B. 2724
H.B. 391	H.B. 1354	H.B. 2727
H.B. 426	H.B. 1361	H.B. 2758
H.B. 509	H.B. 1432	H.B. 2819
H.B. 531	H.B. 1458	H.C.R. 31
H.B. 548	H.B. 1558	H.C.R. 61
H.B. 622	H.B. 1741	H.C.R. 224
H.B. 628	H.B. 1774	H.C.R. 232
H.B. 650	H.B. 1847	H.C.R. 239
H.B. 651	H.B. 1882	H.C.R. 242
H.B. 676	H.B. 1902	H.C.R. 243
H.B. 683	H.B. 1966	

RECESS

On motion of Senator Brooks, the Senate at 12:36 p.m. took recess until 2:00 p.m. today.

AFTER RECESS

The Senate met at 2:00 p.m. and was called to order by Senator Ratliff.

MESSAGE FROM THE HOUSE

House Chamber
May 21, 1991

HONORABLE BOB BULLOCK
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

S.C.R. 117, Designating the month of October, 1991, as "Cowboy Music Month" and honoring The Spirit of Texas cowboy band and Russell D. "Red" Steagall.

H.C.R. 91, Reauthorizing the State Preservation Board to erect, on the Capitol grounds, a memorial honoring Texans who fought and died in the Korean war and the war in Vietnam and Southeast Asia.

The House has concurred in Senate amendments to **H.B. 396** by record vote of 147 Ayes, 0 Noes, 1 Present-not voting.

The House has concurred in Senate amendments to **H.B. 686** by record vote of 142 Ayes, 0 Noes, 1 Present-not voting.

The House has concurred in Senate amendments to **H.B. 1393** by record vote of 135 Ayes, 7 Noes, 1 Present-not voting.

The House has concurred in Senate amendments to **H.B. 1675** by record vote of 144 Ayes, 1 Noes, 1 Present-not voting.

The House has concurred in Senate amendments to **H.B. 1851** by record vote of 144 Ayes, 0 Noes, 1 Present-not voting.

The House has concurred in Senate amendments to **H.B. 2728** by record vote of 141 Ayes, 0 Noes, 1 Present-not voting.

The House has concurred in Senate amendments to **H.B. 44** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 2772** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 166** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 235** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 272** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 377** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 452** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 541** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 1007** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 1101** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 1185** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 1246** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 1607** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 1666** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 1674** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 1769** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 1941** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 2542** by a non-record vote.

The House has refused to concur in Senate amendments to **H.B. 66** and has requested the appointment of a Conference Committee to consider the differences between the two Houses. The following have been appointed on the part of the House: S. Thompson, Chair; Wentworth, Goodman, Rangel, H. Cuellar.

The House has refused to concur in Senate amendments to **H.B. 1773** and has requested the appointment of a Conference Committee to consider the differences between the two Houses. The following have been appointed on the part of the House: Oakley, Chair; Stiles, Hightower, Granoff, Seidlits.

The House has refused to concur in Senate amendments to **H.B. 591** and has requested the appointment of a Conference Committee to consider the differences between the two Houses. The following have been appointed on the part of the House: J. Johnson, Chair; Linebarger, Jones, Patterson, Chisum.

The House has granted the request of the Senate for the appointment of a Conference Committee on **S.B. 787**: Craddick, Chair; Hury, Culberson, Glaze, Earley.

The House has granted the request of the Senate for the appointment of a Conference Committee on **S.B. 692**: Delco, Chair; Moreno, Rangel, Kubiak, B. Hunter.

The House has adopted the Conference Committee Report on **H.B. 1214** by a record vote of 143 Ayes, 0 Noes, 1 Present-not voting.

The House has adopted the Conference Committee Report on **H.B. 1181** by a record vote of 142 Ayes, 0 Noes, 1 Present-not voting.

Respectfully submitted,

BETTY MURRAY, Chief Clerk
House of Representatives

REPORT OF STANDING COMMITTEE

By unanimous consent, Senator Sims submitted the following report for the Committee on Health and Human Services:

S.B. 565 (Amended)

Article III, Section 5 of the Texas Constitution and Senate Rule 7.07(b) having been suspended, the following bills and resolution were introduced, read first time and referred to the Committee indicated:

S.B. 1617 by Ratliff Natural Resources
 Relating to certain laws governing water districts and nonprofit water or sewer
 service corporations; creating a penalty.

The following bills and resolution received from the House were read the first time and referred to the Committee indicated:

H.C.R. 91, To Committee on Administration.
H.B. 207, To Committee on Education.
H.B. 451, To Committee on Natural Resources.
H.B. 521, To Committee on Criminal Justice.
H.B. 611, To Committee on Criminal Justice.
H.B. 790, To Committee on Criminal Justice.
H.B. 826, To Committee on Economic Development,
Subcommittee on Insurance.
H.B. 918, To Committee on Health and Human Services.
H.B. 985, To Committee on State Affairs.
H.B. 1076, To Committee on Jurisprudence.
H.B. 1108, To Committee on Education.
H.B. 1195, To Committee on Finance.
H.B. 1397, To Committee on Intergovernmental Relations.
H.B. 1411, To Committee on Economic Development.
H.B. 1413, To Committee on Education.
H.B. 1417, To Committee on Jurisprudence.
H.B. 1747, To Committee on Finance.
H.B. 1826, To Committee on Natural Resources.
H.B. 1985, To Committee on State Affairs.
H.B. 2024, To Committee on Finance.
H.B. 2286, To Committee on Natural Resources.
H.B. 2497, To Committee on Economic Development.
H.B. 2653, To Committee on Natural Resources.
H.B. 2802, To Committee on Economic Development.
H.B. 2831, To Committee on Natural Resources.
H.B. 2885, To Committee on Education.

(President Pro Tempore Glasgow in Chair)

On motion of Senator Zaffirini and by unanimous consent, H.B. 595 was withdrawn from the Subcommittee on Insurance and rereferred to the Committee on Intergovernmental Relations.

SENATE RESOLUTION 776

Senator Brooks offered the following resolution:

WHEREAS, "Good mental health" can be defined as the ability to adjust to life's routine challenges with a minimum of crises; the mentally healthy person thinks, acts, and relates with others in a way that allows that person to enjoy the world and handle some degree of adversity without seeing life as a grim experience to be endured; and

WHEREAS, In 1990, 2.6 million Texans, or one in six people, suffered from some form of mental illness; statistics also indicate that nearly half a million children in our state currently suffer from severe emotional disturbances that, if left untreated, will ultimately interfere with their normal development; and

WHEREAS, Studies show that 80 percent of all persons with mental illness can return to productive, enjoyable living with appropriate treatment; depending on the type and degree of illness, treatment may involve psychotherapy, environmental change, medication, or some combination of these remedies; and

WHEREAS, State law requires that the Texas Department of Mental Health and Mental Retardation extend appropriate services to those "most in need" of mental care; although 113,000 people were served under this provision last year, it is estimated that there are an additional 100,000 people in the "most in need" category who are not receiving treatment; and

WHEREAS, A significant number of persons with mental illness are unaware of the mental health services and support systems available to them; and

WHEREAS, Compounding the problem is the fact that Texas currently ranks 48th among all states in per capita expenditures for mental health services; in order to rise only to the national per capita expenditure average, Texas would need to increase its mental health budget by 60 percent; and

WHEREAS, Mental health must not be viewed as a luxury available only to those who can afford it, nor should any stigma be associated with seeking mental health services or treatment when necessary; and

WHEREAS, As concerned citizens, we must work together to promote community awareness of available mental health services and to gain more understanding of this complex subject that profoundly affects the lives of so many Texans; now, therefore, be it

RESOLVED, That the Senate of the 72nd Texas Legislature hereby recognize May 1991 as "Mental Health Month" and encourage all Texans to educate themselves and others regarding the importance of mental health and mental illness issues.

The resolution was read.

On motion of Senator Truan and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

GUESTS PRESENTED

Senator Brooks was recognized and introduced the following guests, who are here today in honor of May 1991 as "Mental Health Month": Gene Heatly, Chairman of Volunteer Services State Council, Texas Department of Mental Health and Mental Retardation; Dennis Jones, Commissioner of Texas Department of Mental Health and Mental Retardation; Jacqueline Shannon, President, Texas Alliance for the Mentally Ill; Patti Lou Dawkins, Vice Chair, Texas Department of Mental Health and Mental Retardation; Pauline Hefley, Chair, Citizens Planning Advisory Committee, Texas Department of Mental Health and Mental Retardation; Anne Race, M.D., Texas Department of Mental Health and Mental Retardation; and Cindy Hopkins, Vice Chair, Texas Mental Health Consumers.

Senator Brooks was joined by Senators Truan, Moncrief, Bivins and Johnson in commending these guests for their dedication and service.

An enrolled copy of the resolution, previously adopted by the Senate on Friday, May 17, 1991, was presented to each guest by the President.

GUESTS PRESENTED

Senator Barrientos was recognized and introduced the newly elected Mayor of Austin, Bruce Todd.

The Senate welcomed Mayor-elect Todd.

COMMITTEE SUBSTITUTE SENATE BILL 1027 ON SECOND READING

On motion of Senator Brown and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 1027, Relating to a seller's duty to disclose the condition of real property to a purchaser.

The bill was read second time.

Senator Brown offered the following amendment to the bill:

Amend C.S.S.B. 1027 by striking all below the enacting clause and substituting the following:

SECTION 1. Subchapter A, Chapter 5, Property Code, is amended by adding Section 5.008 to read as follows:

Sec. 5.008. SELLER'S DISCLOSURE OF PROPERTY CONDITION. (a) A person who conveys residential real property located in this state comprising not fewer than one or more than four dwelling units shall give to the purchaser of the property a written notice as prescribed by this section.

(b) The notice must be executed by the seller and must read as follows:

SELLER'S DISCLOSURE NOTICE

CONCERNING THE PROPERTY AT

(Street Address and City)

THIS NOTICE IS A DISCLOSURE OF SELLER'S KNOWLEDGE OF THE CONDITION OF THE PROPERTY AS OF THE DATE SIGNED BY SELLER AND IS NOT A SUBSTITUTE FOR ANY INSPECTIONS OR WARRANTIES THE PURCHASER MAY WISH TO OBTAIN. IT IS NOT A WARRANTY OF ANY KIND BY SELLER OR SELLER'S AGENTS.

Seller is is not occupying the Property.

If unoccupied, how long since Seller has occupied the Property?

1. Seller has not received any notices, either oral or written, regarding the need for repair or replacement of any portion of the Property from any governmental agency, appraiser, inspector, mortgage lender, repair service, or others, except

2. The Property has the items checked below:

<u>Range</u>	<u>Oven</u>	<u>Microwave</u>
<u>Dishwasher</u>	<u>Trash Compactor</u>	<u>Disposal</u>
<u>Washer/Dryer</u>	<u>Window Screens</u>	<u>Rain Gutters</u>
<u>Hookups</u>		
<u>Security System</u>	<u>Fire Detection Equipment</u>	<u>Intercom System</u>
<u>TV Antenna</u>	<u>Cable TV Wiring</u>	<u>Satellite Dish</u>
<u>Ceiling Fan(s)</u>	<u>Attic Fan(s)</u>	<u>Exhaust Fan(s)</u>
<u>Central Air Conditioning</u>	<u>Central Heating</u>	<u>Wall/Window Air Conditioning</u>
<u>Plumbing System</u>	<u>Septic System</u>	<u>Public Sewer System</u>
<u>Patio/Decking</u>	<u>Outdoor Grill</u>	<u>Fences</u>
<u>Pool</u>	<u>Sauna</u>	<u>Spa</u>
		<u>Hot Tub</u>
<u>Pool Equipment</u>	<u>Pool Heater</u>	<u>Automatic Lawn Sprinkler System</u>
<u>Fireplace(s) & Chimney (Woodburning)</u>		<u>Fireplace(s) & Chimney (Mock)</u>
<u>Gas Lines (Nat./LP)</u>		<u>Gas Fixtures</u>
<u>Garage:</u> <u>Attached</u>	<u>Not Attached</u>	<u>Carport</u>
<u>Garage Door Opener(s):</u>	<u>Electronic</u>	<u>Control(s)</u>
<u>Water Heater:</u>	<u>Gas</u>	<u>Electric</u>
<u>Water Supply:</u> <u>City</u>	<u>Well</u>	<u>Co-op</u>
<u>Water Supply:</u> <u>City</u>	<u>Well</u>	<u>MUD</u>
<u>Roof: Type:</u>	<u>Age:</u>	<u>(approx)</u>

Other: _____

Are you (Seller) aware of any of the above items that are not in working condition, that have known defects, or that are in need of repair?

Yes _____ No. If yes, then describe. (Attach additional sheets if necessary):

3. Are you (Seller) aware of any known defects/malfunctions in any of the following? Yes _____ No.

<u>Interior Walls</u>	<u>Ceilings</u>	<u>Floors</u>
<u>Exterior Walls</u>	<u>Doors</u>	<u>Windows</u>
<u>Roof</u>	<u>Foundation/ Slab(s)</u>	<u>Basement</u>
<u>Walls/Fences</u>	<u>Driveways</u>	<u>Sidewalks</u>

TUESDAY, MAY 21, 1991

1877

Plumbing/Sewers/
Septics

Electrical
Systems

Lighting
Fixtures

Other Structural Components (Describe):

If any of the above is checked, explain. (Attach additional sheets if necessary):

4. Are you (Seller) aware of any of the following conditions? If so, check "Yes."

Yes

Active Termites
(includes wood-destroying
insects)

Termite or Wood Rot Damage
Needing Repair

Previous Termite Damage

Previous Termite Treatment

Previous Flooding

Improper Drainage

Water Penetration
of Building

Located in 100-Year
Floodplain

Present Flood Insurance
Coverage

Landfill, Settling, Soil
Movement, or Fault Lines

Subsurface Structure(s) or Pits

Yes

Previous Structural
or Roof Repair

Hazardous or Toxic
Waste

Asbestos Components

Ureaformaldehyde
Insulation

Radon Gas

Lead Based Paint

Aluminum Wiring

Previous Fires

Unplatted Easements

Death Occurring on
Property

If the answer to any of the above is yes, explain. (Attach additional sheets if necessary):

Date

Signature of Seller

The undersigned purchaser hereby acknowledges receipt of the foregoing notice.

Date

Signature of Purchaser

(c) The notice shall be completed to the best of the seller's belief and knowledge as of the date the notice is completed and signed by the seller. If the information required by the notice is unknown to the seller, the seller shall indicate that fact on the notice, and by that act is in compliance with this section.

(d) This section does not apply to a transfer:

- (1) pursuant to a court order or foreclosure sale;
- (2) by a trustee in bankruptcy;
- (3) to a mortgagee by a mortgagor or successor in interest, or to a beneficiary of a deed of trust by a trustor or successor in interest;
- (4) by a mortgagee or a beneficiary under a deed of trust who has acquired the real property at a sale conducted pursuant to a power of sale under a deed of trust or a sale pursuant to a court ordered foreclosure or has acquired the real property by a deed in lieu of foreclosure;
- (5) by a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust;
- (6) from one co-owner to one or more other co-owners;
- (7) made to a spouse, or to a person or persons in the lineal line of consanguinity of one or more of the transferors;
- (8) between spouses resulting from a decree of dissolution of marriage or a decree of legal separation or from a property settlement agreement incidental to such a decree; or
- (9) to or from any governmental entity.

(e) The notice shall be delivered by the seller to the purchaser or the purchaser's agent on or before the effective date of an executory contract binding the purchaser to purchase the property.

(f) The seller is not liable for any error, inaccuracy, or omission of any information in a notice delivered under this section if the error, inaccuracy, or omission was not within the personal knowledge of the seller.

(g) An agent for the seller is not liable for any error, inaccuracy, or omission of any information in a notice delivered by the seller under this section.

(h) A transfer of an interest in real property subject to this section may not be invalidated solely because of the failure of any person to comply with this section.

(i) If a conveyance of real property is not made in compliance with this section, the purchaser has a cause of action against the seller and may recover:

- (1) actual damages not to exceed \$1,000;
- (2) costs of court; and
- (3) reasonable attorney's fees.

(j) The cause of action created by Subsection (i) is in addition to any other cause of action that the purchaser may have.

SECTION 2. This Act takes effect January 1, 1992.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Brown and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1027 ON THIRD READING**

Senator Brown moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that C.S.S.B. 1027 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1546 ON SECOND READING**

On motion of Senator Lyon and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 1546, Relating to improvements which may be undertaken by a municipal public improvement district and to the procedure for creating the district.

The bill was read second time.

Senator Rosson offered the following amendment to the bill:

Amend **C.S.S.B. 1546** as follows:

(1) Insert the following new section, appropriately numbered, to read as follows:

SECTION ____. Section 1, Article 1182m, Vernon's Texas Civil Statutes, is amended to read as follows:

Section 1. Pursuant to Article III, Section 52-a, of the Texas Constitution, any home-rule city with a population exceeding 500,000 [780,000] based on the most recent federal decennial census is authorized to create programs for the grant of public money to any organization exempt from taxation under Section 501(a) of the Internal Revenue Code of 1986 as an organization described in Section 501(c)(3) of that code for the public purposes of development and diversification of the economy of the state, elimination of unemployment or underemployment in the state, and development or expansion of commerce in the state. The grants shall be in furtherance of such public purposes and shall be used by the recipient as determined by the recipient's governing board of programs found by the home-rule city to be in furtherance of this Act and under conditions prescribed by the home-rule city.

(2) Renumber remaining sections appropriately.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Lyon and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1546 ON THIRD READING**

Senator Lyon moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that C.S.S.B. 1546 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 1.

Nays: Zaffirini.

**COMMITTEE SUBSTITUTE
SENATE BILL 656 ON SECOND READING**

On motion of Senator Krier and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 656, Relating to alcoholic beverage seller training programs conducted by certain hotel management companies or hotel operating companies.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 656 ON THIRD READING**

Senator Krier moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that C.S.S.B. 656 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

HOUSE BILL 616 ON SECOND READING

On motion of Senator Harris of Tarrant and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 616, Relating to excluding savings and loans and credit unions from life insurance agent licensing requirements.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 616 ON THIRD READING

Senator Harris of Tarrant moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **H.B. 616** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 617 ON SECOND READING

On motion of Senator Harris of Tarrant and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 617, Relating to the authority of certain licensed insurance agents to assign commissions from credit life insurance and credit accident and health insurance to a state or federal credit union under certain circumstances.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 617 ON THIRD READING

Senator Harris of Tarrant moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **H.B. 617** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE
HOUSE BILL 555 ON SECOND READING**

On motion of Senator Leedom and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 555, Relating to the assignment and compensation of certain judges as visiting judges.

The bill was read second time.

Senator Krier offered the following amendment to the bill:

Floor Amendment No. 1

Amend **C.S.H.B. 555** by striking SECTION 5 and inserting in lieu thereof the following:

SECTION 5. Section 74.055, Government Code, is amended by adding Subsection (e) to read as follows:

(e) For purposes of Subsection (c)(1), a month of service is calculated as a calendar month or a portion of a calendar month in which a judge was authorized by election or appointment by the governor to preside.

The amendment was read and was adopted by a viva voce vote.

Senator Green offered the following amendment to the bill:

Floor Amendment No. 2

Amend **C.S.H.B. 555** as follows:

(1) On page 1, lines 40-41, strike "A judge or justice who was not elected or appointed to fill a vacancy in an elective office" and insert "A former judge or justice who was not a retired judge".

The amendment was read and was adopted by the following vote: Yeas 14, Nays 13.

Yeas: Armbrister, Barrientos, Brooks, Carriker, Dickson, Ellis, Green, Johnson, Leedom, Lucio, Moncrief, Parker, Rosson, Whitmire.

Nays: Bivins, Glasgow, Haley, Krier, Lyon, Montford, Ratliff, Sibley, Sims, Tejada, Truan, Turner, Zaffirini.

Absent: Brown, Harris of Tarrant, Harris of Dallas, Henderson.

Senator Green offered the following amendment to the bill:

Floor Amendment No. 3

Amend C.S.H.B. 555 by adding a new Section 8 and renumbering subsequent sections, as follows:

Section 8. This Act takes effect on or before September 1, 1993. Notwithstanding the authority granted by this Act, no state general revenue may be appropriated for costs related to the implementation of this Act during the fiscal biennium beginning on September 1, 1991 unless expressly authorized by the general appropriations act.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Leedom and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 555 ON THIRD READING**

Senator Leedom moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that C.S.H.B. 555 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 1.

Nays: Krier.

MESSAGE FROM THE HOUSE

House Chamber
May 21, 1991

HONORABLE BOB BULLOCK
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

S.B. 380, Relating to the continuation and operation of the Commission on Jail Standards. (As substituted)

Respectfully submitted,
BETTY MURRAY, Chief Clerk
House of Representatives

**COMMITTEE SUBSTITUTE
SENATE BILL 1275 ON THIRD READING**

Senator Rosson moved that the regular order of business be suspended and that C.S.S.B. 1275 be placed on its third reading and final passage.

C.S.S.B. 1275, Relating to gender equity in vocational education programs.

The motion prevailed by the following vote: Yeas 24, Nays 4.

Yeas: Armbrister, Barrientos, Brooks, Carriker, Dickson, Ellis, Glasgow, Green, Haley, Johnson, Krier, Lucio, Lyon, Moncrief, Montford, Parker, Ratliff, Rosson, Sims, Tejeda, Truan, Turner, Whitmire, Zaffirini.

Nays: Bivins, Brown, Leedom, Sibley.

Absent: Harris of Tarrant, Harris of Dallas, Henderson.

The bill was read third time.

Senator Krier offered the following amendment to the bill:

Amend C.S.S.B. 1275 by striking SECTION 2 and substituting the following:

SECTION 2. Section 16.155, Education Code, is amended by adding Subsection (i) to read as follows:

(i) From the state's share of a district's allotment under this section, the commissioner of education may withhold an amount determined by the commissioner to be used to provide technical assistance to the school district to reduce gender segregation in the district's vocational education programs. The amount shall not exceed 0.5 percent of the district's allotment under this section. The commissioner, with the approval of the State Board of Education, shall enter into performance contracts with regional education service centers to provide the technical assistance to school districts.

By unanimous consent, the amendment was read and was adopted by a viva voce vote.

On motion of Senator Rosson and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was finally passed by the following vote: Yeas 24, Nays 6.

Yeas: Armbrister, Barrientos, Brooks, Carriker, Dickson, Ellis, Glasgow, Green, Haley, Henderson, Johnson, Krier, Lucio, Lyon, Moncrief, Montford, Parker, Ratliff, Rosson, Tejeda, Truan, Turner, Whitmire, Zaffirini.

Nays: Bivins, Brown, Harris of Tarrant, Leedom, Sibley, Sims.

Absent: Harris of Dallas.

**COMMITTEE SUBSTITUTE
HOUSE BILL 841 ON SECOND READING**

On motion of Senator Armbrister and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 841, Relating to the types of inmates housed in a county jail or a correctional facility financed, designed, constructed, leased, operated, purchased, maintained, or managed by a private vendor for a county and to provisions for those inmates.

The bill was read second time and was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 841 ON THIRD READING**

Senator Armbrister moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that C.S.H.B. 841 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 1494 ON SECOND READING

On motion of Senator Brown and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1494, Relating to the issuance of specially designed license plates for the Texas Space Commission.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 1494 ON THIRD READING

Senator Brown moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that H.B. 1494 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

**MOTION TO PLACE
HOUSE BILL 1126 ON THIRD READING**

Senator Turner moved that the regular order of business be suspended and that H.B. 1126 be placed on its third reading and final passage.

H.B. 1126, Relating to fees for personal identification cards, a change in class of driver's license, and a duplicate commercial driver's license or permit.

The motion was lost by the following vote: Yeas 19, Nays 12. (Not receiving two-thirds vote of Members present)

Yeas: Armbrister, Barrientos, Bivins, Carriker, Dickson, Green, Henderson, Krier, Leedom, Lyon, Moncrief, Montford, Ratliff, Rosson, Sibley, Sims, Tejeda, Turner, Whitmire.

Nays: Brooks, Brown, Ellis, Glasgow, Haley, Harris of Tarrant, Harris of Dallas, Johnson, Lucio, Parker, Truan, Zaffirini.

HOUSE BILL 2368 ON SECOND READING

On motion of Senator Whitmire and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 2368, Relating to exempting the procurement of security services, personnel or devices by cities from the requirement for competitive bidding or competitive proposals.

The bill was read second time.

Senator Bivins offered the following amendment to the bill:

Floor Amendment No. 1

Amend H.B. 2368 by inserting a new SECTION 3 in the bill to read as follows and renumbering the existing SECTION 3 as SECTION 4:

SECTION 3. Section 252.022, Local Government Code, is amended by adding Subsection (c) to read as follows:

(c) If a municipality seeks to procure security devices, services, or personnel under Subsection (a)(2), the following information is public:

(1) the total amount of each bid or proposal submitted to the municipality as part of the procurement; and

(2) the total amount the municipality pays or agrees to pay for the procurement.

The amendment was read and was adopted by a viva voce vote.

RECORD OF VOTE

Senator Armbrister asked to be recorded as voting "Present-not voting" on the adoption of the amendment.

Senator Whitmire offered the following amendment to the bill:

Floor Amendment No. 2

Amend H.B. 2368, SECTION 2, as follows:

(1) Amend quoted Sec. 252.022, Subsection (a)(2), by striking the phrase "including a procurement of security devices, services or personnel."

(2) Amend quoted Sec. 252.022, Subsection (a), by adding the following Subsection (13):

(13) a procurement of security devices, services or personnel for a municipal police agency, airport or utility, provided that:

(A) any procurement exempted under this subsection shall be made only after the municipality has compiled a list of qualified vendors, solicited proposals from such vendors and given them a reasonable time to respond (said reasonable time to be determined by the prevailing situation); and

(B) immediately following the procurement, the municipality makes available for public inspection the total amount of each bid or proposal submitted to the municipality as part of the procurement, and the total amount the municipality pays or agrees to pay for the procurement.

The amendment was read and was adopted by a viva voce vote.

RECORD OF VOTE

Senator Armbrister asked to be recorded as voting "Present-not voting" on the adoption of the amendment.

On motion of Senator Whitmire and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

RECORD OF VOTE

Senator Armbrister asked to be recorded as voting "Present-not voting" on the passage of the bill to third reading.

HOUSE BILL 2368 ON THIRD READING

Senator Whitmire moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that H.B. 2368 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Armbrister.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0, Present-not voting 1. (Same as previous roll call)

HOUSE BILL 480 ON SECOND READING

On motion of Senator Green and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 480, Relating to the authority of a court to order the turnover of wages for personal services.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 480 ON THIRD READING

Senator Green moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that H.B. 480 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

RESOLUTION SIGNED

The President Pro Tempore announced the signing in the presence of the Senate the following enrolled resolution:

S.C.R. 149**COMMITTEE SUBSTITUTE
SENATE BILL 1039 ON SECOND READING**

On motion of Senator Montford and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 1039, Relating to the rendition of property for tax purposes.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1039 ON THIRD READING**

Senator Montford moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that C.S.S.B. 1039 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1045 ON SECOND READING**

On motion of Senator Montford and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 1045, Relating to the payment of taxes of separate taxing units to the same collector.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1045 ON THIRD READING**

Senator Montford moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **C.S.S.B. 1045** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1679 ON SECOND READING**

On motion of Senator Montford and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 1679, Relating to written examinations for education professionals that are administered to persons who are hearing impaired.

The bill was read second time.

Senator Zaffirini offered the following amendment to the bill:

Floor Amendment No. 1

Amend **C.S.H.B. 1679** on page _____, by adding the following new Sections appropriately numbered immediately before the emergency clause, and renumbering the emergency clause section accordingly:

SECTION Section 131.004, Education Code, is amended by adding Subsection (d) to read as follows:

(d) The executive director shall determine which courses offered by the institute are appropriate for an electronic display on a screen or terminal, with less than 30 seconds delay, of a speaker's spoken message. The institute shall implement the electronic display in those courses.

SECTION Section 135.05, Education Code, is amended to read as follows:

Sec. 135.05. **SERVICES [INTERPRETERS] FOR THE DEAF.** (a) The institute shall provide qualified interpreters for deaf students in attendance at each campus. In order to be qualified, an interpreter must:

(1) be capable of giving verbatim transliteration or interpretation [translation] of the spoken word through finger spelling, the language of signs, or [and] speaking without voice;

(2) be capable of sign-to-voice [reverse] interpretation from the language of signs to the spoken word; and

(3) ~~[be a member of the Texas Society of Interpreters for the Deaf; and~~
~~[(4)] hold a Level III, IV, or V certificate issued by the Texas~~
Commission for the Deaf or other certificate approved by the executive officer of
the institute ~~[Comprehensive Skills Certificate from the National Registry of~~
~~Interpreters for the Deaf].~~

(b) The institute shall also provide equipment, materials, and services, including tutoring, counseling, and other support services, necessary for the deaf student to take full advantage of existing educational programs.

(c) The executive officer shall determine which courses offered by the institute are appropriate for an electronic display on a screen or terminal, with less than 30 seconds delay, of a speaker's spoken message. The institute shall implement the electronic display in those courses.

SECTION (a) Not later than January 1, 1992, the executive director of the Southwest Collegiate Institute for the Deaf shall determine which courses must include the electronic display service required by Subsection (d), Section 131.004, Education Code, as added by this Act.

(b) Not later than September 1, 1991, the executive officer of the Texas State Technical Institute shall determine which courses must include the electronic display service required by Section 135.05, Education Code, as amended by this Act.

(c) The Southwest Collegiate Institute for the Deaf shall implement the electronic display service required by Subsection (d), Section 131.004, Education Code, as added by this Act, beginning with the fall semester in 1992.

(d) The Texas State Technical Institute shall continue the electronic display service required by Section 135.05, Education Code, as amended by this Act, beginning with the fall semester in 1991.

The amendment was read and was adopted by a viva voce vote.

Senator Montford offered the following amendment to the bill:

Floor Amendment No. 2

Amend C.S.H.B. 1679 by adding a new Section _____ and renumbering subsequent sections, as follows:

Section 2. Notwithstanding the authority granted by this Act, no state general revenue may be appropriated for costs related to the implementation of this Act during the fiscal biennium beginning on September 1, 1991, unless expressly authorized by the general appropriations act.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Montford and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

COMMITTEE SUBSTITUTE HOUSE BILL 1679 ON THIRD READING

Senator Montford moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that C.S.H.B. 1679 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

HOUSE BILL 225 ON SECOND READING

On motion of Senator Leedom and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 225, Relating to registration of certain motor vehicles.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 225 ON THIRD READING

Senator Leedom moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **H.B. 225** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

CONFERENCE COMMITTEE ON HOUSE BILL 66

Senator Dickson called from the President's table for consideration at this time the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 66** and moved that the request be granted.

The motion prevailed.

The President Pro Tempore asked if there were any motions to instruct the Conference Committee on **H.B. 66** before appointment.

There were no motions offered.

Accordingly, the President Pro Tempore announced the appointment of the following conferees on the part of the Senate on the bill: Senators Dickson, Chair; Green, Lucio, Glasgow, Haley.

CONFERENCE COMMITTEE ON HOUSE BILL 1773

Senator Armbrister called from the President's table for consideration at this time the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 1773** and moved that the request be granted.

The motion prevailed.

The President Pro Tempore asked if there were any motions to instruct the Conference Committee on **H.B. 1773** before appointment.

There were no motions offered.

Accordingly, the President Pro Tempore announced the appointment of the following conferees on the part of the Senate on the bill: Senators Armbrister, Chair; Sims, Carriker, Lucio, Krier.

SENATE BILL 1234 WITH HOUSE AMENDMENTS

Senator Carriker called **S.B. 1234** from the President's table for consideration of the House amendments to the bill.

The President Pro Tempore laid the bill and the House amendments before the Senate.

Amendment - Danburg

Amend **S.B. 1234** by substituting the following:

A BILL TO BE ENTITLED
AN ACT

relating to absentee voting processes and procedures.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
ARTICLE 1. SUBSTANTIVE CHANGES AND CHANGES IN
TERMINOLOGY

RELATING TO ABSENTEE VOTING

SECTION 1.01. Section 67.004(c), Election Code, is amended to read as follows:

(c) The canvassing authority may prepare the tabulation as a separate document or may enter the tabulation directly in the local election register maintained for the authority. The authority shall attach or include as part of the tabulation the report of early voting [absentee] votes by precinct and, if applicable, by early voting polling place location received under Section 87.1231.

SECTION 1.02. Sections 82.004, 82.005, and 82.006, Election Code, are amended to read as follows:

~~[Sec. 82.004. RELIGION. A qualified voter is eligible to vote absentee by mail if the voter is forbidden by religious conviction to vote during all or part of the time the polls are open on election day.]~~

Sec. 82.004 ~~[82.005]~~. CONFINEMENT IN JAIL. (a) A qualified voter is eligible for early voting [to vote absentee] by mail if, at the time the voter's early voting [absentee] ballot application is submitted, the voter is confined in jail:

(1) serving a misdemeanor sentence for a term that ends on or after election day;

(2) pending trial after denial of bail;

(3) without bail pending an appeal of a felony conviction; or

(4) pending trial or appeal on a bailable offense for which release on bail before election day is unlikely.

(b) A voter confined in jail who is eligible for early voting [to vote absentee] is not entitled to vote [absentee] by personal appearance unless the authority in charge of the jail, in his discretion, permits the voter to do so.

Sec. 82.005 ~~[82.006]~~. ELIGIBILITY FOR EARLY VOTING ~~[TO VOTE ABSENTEE]~~ BY PERSONAL APPEARANCE. Any qualified voter is eligible for early voting [to vote absentee] by personal appearance.

SECTION 1.03. Subchapter A, Chapter 83, Election Code, is amended by adding Section 83.011 to read as follows:

Sec. 83.011. OFFICE HOURS ON ELECTION DAY. The early voting clerk's office shall remain open for early voting activities during the hours the polls are required to be open for voting on election day.

SECTION 1.04. Section 84.002, Election Code, is amended to read as follows:

Sec. 84.002. CONTENTS OF APPLICATION. (a) An early voting [absentee] ballot application must include:

(1) the applicant's name and the [residence] address at which the applicant is registered to vote;

(2) for an application for a ballot to be voted by mail, the address to which the ballot is to be mailed and an indication of each election for which the voter is applying for a ballot; and

(3) an indication of the ground of eligibility for early voting [to vote absentee].

(b) An application for a ballot to be voted by mail on the ground of absence from the county of residence must indicate that the applicant satisfies the requirements prescribed by Section 82.001.

SECTION 1.05. Section 84.007, Election Code, is amended to read as follows:

Sec. 84.007. SUBMITTING APPLICATION FOR BALLOT VOTED BY MAIL: GENERAL RULE. (a) Except as provided by Sections 84.008 and 84.009, an application for a ballot to be voted by mail must be submitted as provided by this section.

(b) An application must be submitted to the early [absentee] voting clerk by:

(1) mail; [or]

(2) common or contract carrier; or

(3) telephonic facsimile machine, if a machine is available in the clerk's office.

(c) An application must be submitted on or after the 60th day before election day and before the close of regular business in the early [absentee] voting clerk's office or 12 noon, whichever is later, on the seventh day before election day unless that day is a Saturday, Sunday, or legal state or national holiday, in which case the last day is the first preceding regular business day.

(d) An application is considered to be submitted at the time of its receipt by the clerk.

SECTION 1.06. Section 84.011, Election Code, is amended to read as follows:

Sec. 84.011. OFFICIAL APPLICATION FORM. (a) The officially prescribed application form for an early voting [absentee] ballot must include:

(1) immediately preceding the signature space the statement: "I certify that the information given in this application is true, and I understand that giving false information in this application is a crime.";

(2) a statement informing voters of the offense prescribed by Section 84.004;

(3) spaces for entering an applicant's voter registration number and county election precinct of registration, with a statement informing the applicant that failure to furnish that information does not invalidate the application; and

(4) on an application for a ballot to be voted by mail:

(A) a space for an applicant applying on the ground of absence from the county of residence to indicate the date on or after which the applicant can receive mail at the address outside the county; [and]

(B) a space for indicating the fact that an applicant whose application is signed by a witness cannot make his mark and a space for indicating the relationship or the lack of relationship of the witness to the applicant; and

(C) a space for entering an applicant's telephone number, with a statement informing the applicant that failure to furnish that information does not invalidate the application.

(b) The officially prescribed application form for an early voting ballot to be voted by mail must be at least eight inches by nine inches in size and be printed in at least six-point type.

SECTION 1.07. Section 85.005, Election Code, is amended to read as follows:

Sec. 85.005. REGULAR DAYS AND HOURS FOR VOTING. (a) Except as provided by Subsection (c), in an election in which a county clerk or city secretary is the early [absentee] voting clerk under Section 83.002 or 83.005, early [absentee] voting by personal appearance at the main early voting [absentee] polling place shall be conducted on the weekdays of the early [absentee] voting period and during the hours that the county clerk's or city secretary's main business office is regularly open for business.

(b) In an election to which Subsection (a) does not apply, early [absentee] voting by personal appearance at the main early voting [absentee] polling place shall be conducted at least eight hours each weekday of the early [absentee] voting period that is not a legal state holiday unless the territory covered by the election has fewer than 1,000 registered voters. In that case, the voting shall be conducted at least three

hours each day. The authority ordering the election, or the county clerk if that person is the early [absentee] voting clerk, shall determine which hours the voting is to be conducted.

(c) In a county with a population of 100,000 [200,000] or more, the voting in a primary election or the general election for state and county officers shall be conducted at the main early voting [absentee] polling place for at least 12 hours on each weekday of the last week of the early [absentee] voting period, and the voting in a special election ordered by the governor shall be conducted at the main early voting [absentee] polling place for at least 12 hours on each of the last two days of the early [absentee] voting period. Voting shall be conducted in accordance with this subsection in those elections in a county with a population under 100,000 [200,000] on receipt by the early [absentee] voting clerk of a written request for the extended hours submitted by at least 15 registered voters of the county. The request must be submitted in time to enable compliance with Section 85.067.

SECTION 1.08. Section 85.006, Election Code, is amended to read as follows:

Sec. 85.006. VOTING ON SATURDAY OR SUNDAY. (a) Except as provided by Subsection (b), the authority ordering an election may order early [absentee] voting by personal appearance at the main early voting [absentee] polling place to be conducted on one or more Saturdays or Sundays during the early [absentee] voting period.

(b) In an election in which a county clerk or city secretary is the early [absentee] voting clerk under Section 83.002 or 83.005, only the early [absentee] voting clerk may order voting on a Saturday or Sunday. The clerk must do so by written order.

(c) The authority ordering voting on a Saturday or Sunday shall determine the hours during which voting is to be conducted.

(d) The authority authorized to order early [absentee] voting on a Saturday or Sunday under Subsection (a) or (b) shall order the voting under the applicable subsection on receipt of a written request submitted by at least 15 registered voters of the territory covered by the election. The request must be submitted in time to enable compliance with Section 85.007. The authority is not required to order the voting on a particular date specified by the request but shall order the voting on at least one Saturday if a Saturday is requested and on at least one Sunday if a Sunday is requested.

(e) In a primary election or the general election for state and county officers in a county with a population of 100,000 [200,000] or more, the early [absentee] voting clerk shall order personal appearance voting at the main early voting [absentee] polling place to be conducted for at least 12 hours on the last Saturday and for at least five hours on the last Sunday of the early [absentee] voting period. The early [absentee] voting clerk shall order voting to be conducted at those times in those elections in a county with a population under 100,000 [200,000] on receipt of a written request for those hours submitted by at least 15 registered voters of the county. The request must be submitted in time to enable compliance with Section 85.007. This subsection supersedes any provision of this subchapter to the extent of any conflict.

SECTION 1.09. Section 85.036, Election Code, is amended to read as follows:

Sec. 85.036. ELECTIONEERING PROHIBITED. (a) During the time an early voting [absentee] polling place is open for the conduct of early [absentee] voting, a person may not electioneer for or against any candidate, measure, or political party in or within a certain distance from the building or structure in which the early voting polling place is located, as follows:

(1) for a building containing the main early voting polling place, a person may not electioneer in the room in which the [absentee] polling place is located[;] or

~~[(2) in any corridor in the building in which the polling place is located] within [a distance of] 30 feet of [from] the entrance to the room in which the polling place is located;~~

~~(2) for a building that is also used as a precinct polling place, a person may not electioneer within 100 feet of an outside door through which a voter may enter the building in which the polling place is located; and~~

~~(3) for any other structure, a person may not electioneer within 30 feet of the entrance to the voting area.~~

(b) During the early [absentee] voting period, the early [absentee] voting clerk shall keep continuously posted:

(1) at the entrance to the room or area, as applicable, in which the early voting [absentee] polling place is located, a sign on which is printed in large letters "Early Voting [Absentee] Polling Place"; and

(2) at the outer limits of the area within which electioneering is prohibited ~~[in each corridor leading to the entrance to the room in which the polling place is located, 30 feet from the entrance]~~, a sign on which is printed in large letters "Distance Marker. No electioneering between this point and the entrance to the early voting [absentee] polling place."

(c) A person commits an offense if the person electioneers in violation of Subsection (a).

(d) An offense under this section is a Class C misdemeanor.

(e) Sections 61.003 and 61.004 do not apply to early voting [absentee] polling places.

SECTION 1.10. Section 85.061, Election Code, is amended to read as follows:

Sec. 85.061. PERMANENT BRANCH POLLING PLACE. (a) In a countywide election in which the county clerk is the early [absentee] voting clerk under Section 83.002, an early voting [absentee] polling place shall be located at each branch office that is regularly maintained for conducting general clerical functions of the county clerk, except as provided by Subsection (b).

(b) In an election in which a temporary branch polling place is established under Section 85.062(a)(1) or (d), the commissioners court may provide by resolution, order, or other official action that any one or more of the county clerk's regularly maintained branch clerical offices are not to be branch early voting [absentee] polling places in the election. ~~[In an election in which a temporary branch polling place is established under Section 85.062(d), the county clerk's regularly maintained branch clerical offices may not be branch absentee polling places.]~~

(c) In this subchapter, "permanent branch polling place" means an early voting [absentee] polling place established under this section.

SECTION 1.11. Section 85.062, Election Code, is amended to read as follows:

Sec. 85.062. TEMPORARY BRANCH POLLING PLACE. (a) Except as provided by Subsection (d), one [One] or more early voting [absentee] polling places other than the main early voting [absentee] polling place may be established by:

(1) the commissioners court, for an election in which the county clerk is the early [absentee] voting clerk; or

(2) the governing body of the political subdivision served by the authority ordering the election, for an election in which a person other than the county clerk is the early [absentee] voting clerk.

(b) A polling place established under this section may be located, subject to Subsection (d), at any place in the territory served by the early [absentee] voting clerk and may be located in any structure, whether stationary or movable, as directed by the authority establishing the branch office. Ropes or other suitable objects may be used at the polling place to ensure compliance with Section 62.004. Persons who are not expressly permitted by law to be in a polling place shall be excluded from the polling place to the extent practicable.

(c) In any election, the location of a polling place established under this section shall be fixed at one place for the duration of the period that voting is required to be conducted at the polling place.

(d) In a primary election, the general election for state and county officers, or a special election to fill a vacancy in the legislature or in congress;

(1) the commissioners court of a county with a population of 400,000 or more shall establish one or more early voting polling places other than the main early voting polling place in each state representative district containing territory covered by the election, except that the polling place or places shall be established in the state senatorial or congressional district, as applicable, in a special election to fill a vacancy in the office of state senator or United States representative; and

(2) the commissioners court of a county with a population of 200,000 or more but less than 400,000 shall establish one or more early voting polling places other than the main early voting polling place in each commissioners precinct containing territory covered by the election [In a county with a population of more than two million, the commissioners court shall establish one or more absentee polling places other than the main absentee polling place in one or more justice precincts containing territory covered by an election in which the county clerk is the absentee voting clerk. The number of polling places in each justice precinct may not exceed the number of justices of the peace elected in that precinct. This subsection supersedes any provision of this subchapter to the extent of any conflict].

(e) In this subchapter, "temporary branch polling place" means an early voting [absentee] polling place established under this section.

SECTION 1.12. Section 85.064, Election Code, is amended to read as follows:

Sec. 85.064. DAYS AND HOURS FOR VOTING: TEMPORARY BRANCH IN POPULOUS COUNTY. (a) This section applies only to an election in which the territory served by the early [absentee] voting clerk is situated in a county with a population of 100,000 or more. In an election in which the territory served by the clerk is situated in more than one county, this section applies if the sum of the populations of the counties is 100,000 or more.

(b) Early [Absentee] voting by personal appearance at each temporary branch polling place established under Section 85.062(d) shall be conducted on the days and for the same number of [during the] hours that voting is required to be conducted at the main early voting [absentee] polling place under Section 85.005.

(c) Early voting by personal appearance at a temporary branch polling place other than a temporary branch polling place established under Section 85.062(d) may be conducted on any one or more days and during any hours of the period for early voting by personal appearance, as determined by the authority establishing the branch.

(d) The authority authorized under Section 85.006 to order early [absentee] voting on a Saturday or Sunday may also order, in the manner prescribed by that section, early [absentee] voting to be conducted on a Saturday or Sunday at any one or more of the temporary branch polling places. In addition, the early [absentee] voting clerk of a county covered by Section 85.006(e) shall order such voting in accordance with that subsection at each temporary branch polling place established under Section 85.062(d).

SECTION 1.13. Section 85.065, Election Code, is amended to read as follows:

Sec. 85.065. DAYS AND HOURS FOR VOTING: TEMPORARY BRANCH IN LESS POPULOUS COUNTY. (a) This section applies only to an election in which the territory served by the early [absentee] voting clerk is situated in a county with a population under 100,000. In an election in which the territory served by the clerk is situated in more than one county, this section applies if the sum of the populations of the counties is under 100,000.

(b) Voting [Subject to Section 85.005(c), voting] at a temporary branch polling place may be conducted on any one or more days and during any hours of the period

for early voting [absentee] by personal appearance, as determined by the authority establishing the branch. The authority authorized under Section 85.006 to order early [absentee] voting on a Saturday or Sunday may also order, in the manner prescribed by that section, early [absentee] voting to be conducted on a Saturday or Sunday at any one or more of the temporary branch polling places. [In addition, the absentee voting clerk of a county covered by Section 85.006(c) shall order such voting in accordance with that subsection at each temporary branch polling place.]

(c) The schedules for conducting voting are not required to be uniform among the temporary branch polling places.

SECTION 1.14. Section 85.066, Election Code, is amended to read as follows:

Sec. 85.066. VOTERS SERVED BY BRANCH POLLING PLACE. (a) Except as [otherwise] provided by Subsection (b) [this section], any voter who is entitled to vote an early voting ballot [absentee] by personal appearance may do so at any branch polling place in the territory served by the early [absentee] voting clerk.

(b) For a countywide election in which temporary branch polling places are established under Section 85.062(d)(1), the commissioners court may limit voting at a temporary branch polling place to the voters of particular state representative districts. To the extent practicable, the state representative districts shall be grouped so that the temporary branch polling places in each group serve substantially equal numbers of voters. A maximum of four groups of state representative districts may be established under this subsection [For an election in which a branch polling place is established under Section 85.061 or 85.062(a)(1), the commissioners court may limit voting at a branch polling place to the qualified voters of a justice precinct].

[(c) The voting at a branch polling place established under Section 85.062(d) is limited to the qualified voters of the particular justice precinct.

[(d) For elections in which the county clerk is not the absentee voting clerk, the governing body of the political subdivision served by the authority ordering the election may limit voting at a branch polling place to the qualified voters of particular election precincts. To the extent practicable, the election precincts shall be grouped so that the branch polling places serve substantially equal numbers of voters.]

SECTION 1.15. Section 85.067, Election Code, is amended to read as follows:

Sec. 85.067. PUBLIC NOTICE OF BRANCH VOTING SCHEDULE. (a) The early [absentee] voting clerk shall post for each election a schedule stating:

(1) the location of each permanent and temporary branch polling place at which voting will be conducted and the election precincts served by each branch polling place; and

(2) except as provided by Subsection (b), the dates and hours that temporary branch voting will be conducted.

(b) The schedule is not required to include dates and hours for which public notice is posted under Section 85.068.

(c) The schedule shall be posted continuously for a period beginning not later than the fifth [tenth] day before the first day of the period for early voting [absentee] by personal appearance and ending on the last day of that period. The schedule may be amended after the beginning of early voting by personal appearance to include notice of additional temporary branch polling place locations, dates, and hours, but any amendment must be made not later than the fifth day before the date the voting is scheduled to begin at the additional temporary branch.

(d) The schedule shall be posted on the bulletin board used for posting notice of meetings of the governing body of the political subdivision served by the authority ordering the election or, if the early [absentee] voting clerk is the county clerk or city secretary, meetings of the commissioners court or city governing body, as applicable.

(e) The early [absentee] voting clerk shall make copies of the schedule available to the public in reasonable quantities without charge during the posting period.

SECTION 1.16. Section 85.068, Election Code, is amended to read as follows:

Sec. 85.068. PUBLIC NOTICE OF ADDITIONAL VOTING TIME ORDERED BY CLERK. (a) The early [absentee] voting clerk shall post notice for each election stating any dates and the hours that voting on Saturday or Sunday will be conducted under Section 85.064(d) [~~85.064(c)~~] or 85.065(b), if the early [absentee] voting clerk is a county clerk or city secretary under Section 83.002 or 83.005.

(b) The notice is not required to include the dates and hours that appear in the branch office voting schedule posted under Section 85.067.

(c) The notice shall be posted as provided by Section 85.007(c).

SECTION 1.17. Section 86.006, Election Code, is amended to read as follows:

Sec. 86.006. METHOD OF RETURNING MARKED BALLOT. (a) A marked ballot voted under this chapter must be returned to the early [absentee] voting clerk in the official carrier envelope. The carrier envelope may be delivered in another envelope and must be delivered by mail or by common or contract carrier. [~~A ballot returned by any other method may not be counted.~~]

(b) Except as provided by Subsection (c), a [~~A~~] carrier envelope may not be returned in an envelope or package containing another carrier envelope.

(c) The carrier envelopes of spouses or parents and children who are registered to vote at the same address may be returned in the same envelope or package.

(d) A ballot returned in violation of this section [subsection] may not be counted. If the early voting clerk determines that the ballot was returned in violation of this section, the clerk shall make a notation on the carrier envelope and treat it as a ballot not timely returned in accordance with Section 86.011(c).

SECTION 1.18. Section 86.011, Election Code, is amended to read as follows:

Sec. 86.011. ACTION BY CLERK ON RETURN OF BALLOT. (a) The early [absentee] voting clerk shall determine whether the return of a voter's official carrier envelope for a ballot voted by mail is timely.

(b) If the return is timely, the clerk shall enclose the carrier envelope and the voter's early voting [absentee] ballot application in a jacket envelope.

(c) If the return is not timely, the clerk shall enter the time of receipt on the carrier envelope and retain it for the period for preserving the precinct election records. The clerk shall destroy the unopened envelope and its contents after the preservation period.

(d) Notwithstanding any other provisions of this code, if the clerk receives a timely carrier envelope that does not fully comply with the applicable requirements prescribed by this title, the clerk may deliver the carrier envelope in person or by mail to the voter and may receive, before the deadline, the corrected carrier envelope from the voter, or the clerk may notify the voter of the defect by telephone and advise the voter that he may come to the clerk's office in person to correct the defect or cancel his application to vote by mail and vote on election day. If the procedures [procedure] authorized by this subsection are [is] used, they [it] must be applied uniformly to all carrier envelopes covered by this subsection. A poll watcher is entitled to [~~accompany the clerk and~~] observe the procedures under this subsection. The secretary of state may prescribe any other procedures necessary to implement this subsection including requirements for posting notice of any deliveries.

SECTION 1.19. Section 86.013, Election Code, is amended to read as follows:

Sec. 86.013. OFFICIAL CARRIER ENVELOPE. (a) "Carrier Envelope for Early Voting [Absentee] Ballot," the name and official title of the early [absentee] voting clerk as addressee, and the clerk's official mailing address must be printed on the face of each official carrier envelope for a ballot to be voted by mail.

(b) Spaces for indicating the identity and date of the election must appear on the reverse side of the official carrier envelope.

(c) A certificate in substantially the following form must be printed on the reverse side of the official carrier envelope in a manner that requires the voter to sign across the flap of the envelope:

"I certify that the enclosed ballot expresses my wishes independent of any dictation or undue persuasion by any person.

Signature of voter

By: _____
Signature of person assisting
voter, if applicable (see
Ballot Envelope for
restrictions and penalties)

Printed name of person
assisting voter, if applicable

Residence address of person
assisting voter, if applicable"

(d) The prohibition prescribed by Section 86.006(b), in wording prescribed by the secretary of state, must be printed on the reverse side of the official carrier envelope.

(e) The following notice must be printed on the reverse side of the official carrier envelope, near the space provided for the voter's signature: "This envelope must be sealed by the voter before it leaves the voter's hands."

SECTION 1.20. Section 87.021, Election Code, is amended to read as follows:

Sec. 87.021. **BALLOTS AND OTHER MATERIALS DELIVERED TO BOARD.** The early [absentee] voting clerk shall deliver to the early voting [absentee] ballot board:

- (1) each ballot box, in accordance with Section 85.032(b), containing the early voting [absentee] ballots voted by personal appearance and the clerk's key to each box;
- (2) the jacket envelopes containing the early voting [absentee] ballots voted by mail;
- (3) the poll lists prepared in connection with early [absentee] voting by personal appearance; [and]
- (4) the list of registered voters used in conducting early [absentee] voting; and

(5) a ballot transmittal form that includes a statement of the number of early voting ballots voted by mail that are delivered to the early voting ballot board and the number of names appearing on the poll lists prepared in connection with early voting by personal appearance.

SECTION 1.21. Section 87.022, Election Code, is amended to read as follows:

Sec. 87.022. **TIME OF DELIVERY: GENERAL RULE.** Except as provided by Section 87.0221, 87.023, or 87.024, the materials shall be delivered to the early voting [absentee] ballot board under this subchapter during the time the polls are open on election day, or as soon after the polls close as practicable, at the time or times specified by the presiding judge of the board.

SECTION 1.22. Subchapter B, Chapter 87, Election Code, is amended by adding Sections 87.0221 and 87.0241 to read as follows:

Sec. 87.0221. **TIME OF DELIVERY: PAPER BALLOTS.** (a) In an election in which regular paper ballots are used for early voting, the materials may be delivered to the board between the end of the period for early voting by personal

appearance and the closing of the polls on election day, or as soon after closing as practicable, at the time or times specified by the presiding judge of the board.

(b) The early voting clerk shall post notice of each delivery of materials under this section that is to be made before the time for opening the polls on election day. The notice shall be posted at the main early voting polling place continuously for at least 24 hours immediately preceding the delivery.

(c) At least 24 hours before each delivery, the early voting clerk shall notify the county chairman of each political party having a nominee on the ballot of the time the delivery is to be made.

Sec. 87.0241. PROCESSING BALLOTS BEFORE POLLS OPEN. (a) The early voting ballot board may determine whether to accept early voting ballots voted by mail in accordance with Section 87.041 at any time after the ballots are delivered to the board.

(b) The board may not count early voting ballots until the polls open on election day.

SECTION 1.23. Section 87.027, Election Code, is amended to read as follows:

Sec. 87.027. SIGNATURE VERIFICATION COMMITTEE. (a) A signature verification committee may be appointed in any election. The early [absentee] voting clerk is the authority responsible for determining whether a signature verification committee is to be appointed. If the clerk determines that a committee is to be appointed, the clerk shall issue a written order calling for the appointment.

(b) The following authority is responsible for appointing the members of a signature verification committee:

(1) the county election board, in an election for which the board is established;

(2) the county chairman, in a primary election; and

(3) the governing body of the political subdivision, in an election ordered by an authority of a political subdivision other than a county.

(c) Not later than the fifth day after the date the early [absentee] voting clerk issues the order calling for the appointment of a signature verification committee, the appropriate authority shall appoint the members of the committee and designate one of the appointees as chairman. The authority shall fill a vacancy on the committee by appointment as soon as possible after the vacancy occurs. The early [absentee] voting clerk shall post notice of the name and residence address of each appointee. The notice must remain posted continuously for the period beginning the day after the date of the appointment and ending on the last day of the committee's operation in the election.

(d) The early [absentee] voting clerk shall determine the number of members who are to compose the signature verification committee and shall state that number in the order calling for the committee's appointment. A committee must consist of not fewer than five [~~not more than 15~~] members and, in elections in which party alignment is indicated on the ballot, must be balanced as equally as possible by members of each political party required to nominate candidates by primary election.

(e) To be eligible to serve on a signature verification committee, a person must be a qualified voter:

(1) of the county, in a countywide election ordered by the governor or a county authority or in a primary election;

(2) of the part of the county in which the election is held, for an election ordered by the governor or a county authority that does not cover the entire county of the person's residence; or

(3) of the political subdivision, in an election ordered by an authority of a political subdivision other than a county.

(f) The early [absentee] voting clerk shall determine the place, day or days, and hours of operation of the signature verification committee and shall state that information in the order calling for the committee's appointment. A committee may not begin operating before the 20th [10th] day before election day.

(g) The early [absentee] voting clerk shall post a copy of the order calling for the appointment of the signature verification committee. The copy must remain posted continuously for at least 10 days before the first day the committee meets.

(h) If a signature verification committee is appointed for the election, the early [absentee] voting clerk shall deliver the jacket envelopes containing the early voting [absentee] ballots voted by mail to the committee instead of to the early voting [absentee] ballot board. Deliveries may be made only during the period of the committee's operation at times scheduled in advance of delivery by the early [absentee] voting clerk. The clerk shall post notice of the time of each delivery. The notice must remain posted continuously for at least two days before the date of the delivery.

(i) The signature verification committee shall compare the signature on each carrier envelope certificate, except those signed for a voter by a witness, with the signature on the voter's ballot application to determine whether the signatures are those of the same person. The committee shall place the jacket envelopes, carrier envelopes, and applications of voters whose signatures do not match in separate containers from those of voters whose signatures match. The committee chairman shall deliver the sorted materials to the early voting [absentee] ballot board at the time specified by the board's presiding judge but within the period permitted for the early [absentee] voting clerk's delivery of early voting [absentee] ballots to the board.

(j) If a signature verification committee is appointed, the early voting [absentee] ballot board shall follow the same procedure for accepting the early voting [absentee] ballots voted by mail as in an election without a signature verification committee, except that the board may not determine whether a voter's signatures on the carrier envelope certificate and ballot application match if the committee has determined that the signatures match.

(k) Postings required by this section shall be made on the bulletin board used for posting notice of meetings of the commissioners court, in an election for which the county election board is established or a primary election, or of the governing body of the political subdivision in other elections.

SECTION 1.24. Section 87.041, Election Code, is amended to read as follows:

Sec. 87.041. ACCEPTING VOTER. (a) The early voting [absentee] ballot board shall open each jacket envelope for an early voting [absentee] ballot voted by mail and determine whether to accept the voter's ballot.

(b) A ballot may be accepted only if:

(1) the carrier envelope certificate is properly executed;

(2) neither the voter's signature on the ballot application nor the signature on the carrier envelope certificate is determined to have been executed by a person other than the voter, unless signed by a witness;

(3) the voter's ballot application states a legal ground for early voting [absentee] by mail;

(4) ~~the ballot was timely returned to the absentee voting clerk by the proper method;~~

~~[(5)]~~ the voter is registered to vote, if registration is required by law; and

~~(5) [(6)]~~ the address to which the ballot was mailed to the voter, as indicated by his application, was outside the voter's county of residence, if the ground for early voting [absentee] is absence from the county of residence.

(c) If a ballot is accepted, the board shall enter the voter's name on the poll list unless the form of the list makes it impracticable to do so. The names of the voters

casting ballots by mail shall be listed separately on the poll list from those casting ballots by personal appearance.

(d) A ballot shall be rejected if any requirement prescribed by Subsection (b) is not satisfied. In that case, the board shall indicate the rejection by entering "rejected" on the carrier envelope and on the corresponding jacket envelope.

SECTION 1.25. Subchapter C, Chapter 87, Election Code, is amended by adding Section 87.0431 to read as follows:

Sec. 87.0431. NOTICE OF REJECTED BALLOT. Not later than the 10th day after election day, the presiding judge of the early voting ballot board shall deliver written notice of the reason for the rejection of a ballot to the voter at the residence address on the ballot application.

SECTION 1.26. Section 87.082, Election Code, is amended to read as follows:

Sec. 87.082. REGISTERING VOTES BY MAIL ON MACHINE. (a) At the discretion of the presiding judge, the early voting [absentee] ballot board may register the early voting [absentee] votes cast by mail on a mechanical voting machine.

(b) The determination of whether to accept the ballots voted by mail may be made before election day but the votes may not be registered on a machine until election day.

(c) The early voting votes cast by mail may not be registered on a mechanical voting machine on which early voting votes were cast by personal appearance unless the early voting ballot board has read and entered on the returns the votes cast on the machine by personal appearance.

SECTION 1.27. Section 87.121, Election Code, is amended to read as follows:

Sec. 87.121. EARLY VOTING ROSTERS [ABSENTEE ROSTER]. (a) The early [absentee] voting clerk shall maintain for each election a roster listing each person who votes an early voting ballot [absentee] by personal appearance and a roster listing each person to whom an early voting [absentee] ballot to be voted by mail is sent.

(b) For each person listed, the applicable roster must include:

- (1) the person's name, address, and voter registration number;
- (2) an identification of the person's county election precinct of registration; and
- (3) [an indication of whether the person voted by personal appearance or was sent a ballot to be voted by mail; and
- [(4)] the date of voting or the date the ballot was mailed to the person, as applicable.

(c) Each [The] roster shall be updated daily.

(d) Each [The] roster may be maintained in any form approved by the secretary of state.

(e) The clerk shall preserve each [the] roster after the election for the period for preserving the precinct election records.

(f) Information on the roster for a person to whom an early voting mail ballot has been sent is not available for public inspection, except to the voter seeking to verify that the information pertaining to him is accurate, until 24 hours after the time a ballot was mailed to the voter.

SECTION 1.28. Subchapter G, Chapter 87, Election Code, is amended by adding Section 87.1221 to read as follows:

Sec. 87.1221. DISPOSITION OF BALLOT TRANSMITTAL FORM. (a) The presiding judge of the early voting ballot board shall enter on the ballot transmittal form the following information:

- (1) the number of personal appearance ballots received;
- (2) the number of mail ballots received;
- (3) the number of mail ballots accepted;

(4) the number of mail ballots rejected; and

(5) the number of ballots counted or delivered to the central counting station, as applicable.

(b) A board member shall deliver the transmittal form to the general custodian of election records to be preserved for the period for preserving the precinct election records.

SECTION 1.29. Section 87.1231, Election Code, is amended to read as follows:

Sec. 87.1231. EARLY VOTING [ABSENTEE] VOTES REPORTED BY PRECINCT. (a) Not later than the time of the local canvass, the early [absentee] voting clerk shall deliver to the local canvassing authority a report of the total number of early voting [absentee] votes for each candidate or measure by election precinct. That total may be reported to reflect the total for votes by mail and the total for votes by personal appearance.

(b) The report may include the total number of early voting votes for each candidate or measure by early voting polling place location.

SECTION 1.30. Section 88.004, Election Code, is amended to read as follows:

Sec. 88.004. NOTICE OF OUTCOME TO VOTER. (a) If as a result of a challenge under this chapter a ballot is not accepted, the early [absentee] voting clerk shall deliver written notice of the result of the challenge, including the reason for the result, to the challenged voter.

(b) If the notice is delivered by mail, it shall be sent to the voter's residence address.

(c) The notice shall be delivered not later than the third day after the date the challenge is determined.

SECTION 1.31. Section 101.004, Election Code, is amended to read as follows:

Sec. 101.004. SUBMITTING APPLICATION. (a) A federal postcard application must be submitted by mailing it to the early [absentee] voting clerk for the election who serves the election precinct of the applicant's residence.

(b) A federal postcard application may be submitted at any time during the calendar year [or voting year] in which the election for which a ballot is requested occurs, but not later than the deadline for submitting a regular application for a ballot to be voted by mail.

(c) A federal postcard application requesting a ballot for an election to be held in January or February may be submitted in the preceding calendar year but not earlier than the earliest date for submitting a regular application for a ballot to be voted by mail.

(d) A timely application that is addressed to the wrong early voting clerk shall be forwarded to the proper early voting clerk not later than the day after the date it is received by the wrong clerk.

SECTION 1.32. Section 101.007, Election Code, is amended to read as follows:

Sec. 101.007. METHOD OF PROVIDING BALLOT; REQUIRED ADDRESS. (a) The balloting materials provided under this chapter shall be airmailed to the voter free of United States postage, as provided by the Federal Voting Assistance Act of 1955, in an envelope labeled "Official Election Balloting Material - via Airmail." The secretary of state shall provide early [absentee] voting clerks with instructions on compliance with this subsection.

(b) The address to which the balloting materials are sent to a voter must be:

(1) an address outside the county of the voter's residence; or

(2) an address in the United States for forwarding or delivery to the voter at a location outside the United States.

(c) If the address to which the balloting materials are to be sent is within the county served by the early voting clerk, the federal postcard application must indicate that the balloting materials will be forwarded or delivered to the voter at a location outside the United States.

SECTION 1.33. Section 102.003, Election Code, is amended to read as follows:

Sec. 102.003. SUBMITTING APPLICATION. (a) An application for a late [absentee] ballot must be submitted in person to the early [absentee] voting clerk at the main early voting [absentee] polling place by a representative of the applicant. However, if the early voting [absentee] ballots voted by mail are processed at a location other than the main early voting [absentee] polling place, the early [absentee] voting clerk may require the application to be submitted at that location.

(b) An application may be submitted after the last day of the period for early voting [absentee] by personal appearance and before 2 p.m. [12 noon] on election day.

(c) To be eligible to serve as an applicant's representative, a person:

- (1) must be at least 18 years of age;
- (2) must not be employed by or related within the third degree by consanguinity or affinity to a candidate whose name appears on the ballot; and
- (3) must not have served in the election as the representative for another applicant.

SECTION 1.34. Section 103.001, Election Code, is amended to read as follows:

Sec. 103.001. ELIGIBILITY. (a) A qualified voter is eligible to vote a late [absentee] ballot as provided by this chapter if:

(1) the voter will be absent from the county of residence on election day because of the death of a person related to the voter within the first degree by consanguinity or affinity; and

(2) the death occurs on or after the [fifth] day before the last [election] day of the period for early voting by personal appearance.

(b) In this chapter, "late [absentee] ballot" means a ballot voted under this chapter.

SECTION 1.35. Section 114.007, Election Code, is amended to read as follows:

Sec. 114.007. METHOD OF PROVIDING BALLOT; REQUIRED ADDRESS; RETURN OF BALLOT. (a) The balloting materials provided under this chapter shall be airmailed to the voter free of United States postage, as provided by the federal Overseas Citizens Voting Rights Act of 1975, in an envelope labeled "Official Election Balloting Material—via Airmail." The secretary of state shall provide early [absentee] voting clerks with instructions on compliance with this subsection.

(b) The address to which the balloting materials are sent to a voter must be an address outside the United States or an address in the United States for forwarding or delivery to the voter at a location outside the United States. If the address to which the balloting materials are to be sent is within the county served by the early voting clerk, the federal ballot application must indicate that the balloting materials will be forwarded or delivered to the voter at a location outside the United States.

(c) A ballot voted under this chapter may be returned to the early [absentee] voting clerk by mail, common or contract carrier, or courier.

SECTION 1.36. Section 102.010, Election Code, is repealed.

ARTICLE 2. CHANGES RELATING TO ABSENTEE VOTING TERMINOLOGY

SECTION 2.01. The heading of Title 7, Election Code, is amended to read as follows:

TITLE 7. EARLY ~~[ABSENTEE]~~ VOTING

SECTION 2.02. The heading of Subtitle A, Title 7, Election Code, is amended to read as follows:

SUBTITLE A. EARLY ~~[ABSENTEE]~~ VOTING

SECTION 2.03. Chapter 81, Election Code, is amended to read as follows:

CHAPTER 81. GENERAL PROVISIONS

Sec. 81.001. EARLY ~~[ABSENTEE]~~ VOTING REQUIRED. (a) In each election in this state, early ~~[absentee]~~ voting shall be conducted by personal appearance at an early voting ~~[absentee]~~ polling place and by mail.

(b) A reference in a law outside this code to "absentee voting" means "early voting."

Sec. 81.002. APPLICABILITY OF OTHER CODE PROVISIONS. The other titles of this code apply to early ~~[absentee]~~ voting except provisions that are inconsistent with this title or that cannot feasibly be applied to early ~~[absentee]~~ voting.

Sec. 81.003. SUBSTITUTION OF ELECTRONIC SYSTEM BALLOTS FOR PAPER BALLOTS. In an election in which an electronic voting system is used in regular voting but not for all or part of the early ~~[absentee]~~ voting, the electronic system ballots prepared for use in regular voting may be used for early ~~[absentee]~~ voting, if practicable, at the discretion of the authority responsible for having the official ballot prepared for the election.

Sec. 81.004. LOCATION OF PUBLIC ELECTION RECORDS. Election records for which the early ~~[absentee]~~ voting clerk is custodian and that are public information shall be kept:

(1) for an election in which a county clerk or city secretary is the early ~~[absentee]~~ voting clerk, at the early voting ~~[absentee]~~ clerk's main business office; or

(2) for any other election, at a location designated by the authority appointing the clerk.

SECTION 2.04. The heading of Chapter 82, Election Code, is amended to read as follows:

CHAPTER 82. ELIGIBILITY FOR EARLY VOTING
~~[TO VOTE ABSENTEE]~~

SECTION 2.05. Sections 82.001-82.003, Election Code, are amended to read as follows:

Sec. 82.001. ABSENCE FROM COUNTY OF RESIDENCE. (a) Subject to Subsection (b), a qualified voter is eligible for early voting ~~[to vote absentee]~~ by mail if the voter expects to be absent from the county of the voter's residence on election day and during the regular hours for conducting early ~~[absentee]~~ voting at the main early voting ~~[absentee]~~ polling place for that part of the period for early voting ~~[absentee]~~ by personal appearance remaining after the voter's early voting ~~[absentee]~~ ballot application is submitted to the early ~~[absentee]~~ voting clerk.

(b) If a voter's early voting ~~[absentee]~~ ballot application is submitted on or after the first day of the period for early voting ~~[absentee]~~ by personal appearance, the voter is ineligible for early voting ~~[to vote absentee]~~ by mail unless the voter is absent from the county when the application is submitted and satisfies the requirements prescribed by Subsection (a).

Sec. 82.002. DISABILITY. (a) A qualified voter is eligible for early voting ~~[to vote absentee]~~ by mail if the voter has a sickness or physical condition that prevents the voter from appearing at the polling place on election day without a likelihood of needing personal assistance or of injuring his health.

(b) Expected or likely confinement for childbirth on election day is sufficient cause to entitle a voter to vote ~~[absentee]~~ under Subsection (a).

Sec. 82.003. AGE. A qualified voter is eligible for early voting [~~to vote absentee~~] by mail if the voter is 65 years of age or older on election day.

SECTION 2.06. Chapter 83, Election Code, is amended to read as follows:

CHAPTER 83. OFFICER CONDUCTING EARLY [~~ABSENTEE~~] VOTING

SUBCHAPTER A. EARLY [~~ABSENTEE~~] VOTING CLERK

Sec. 83.001. EARLY [~~ABSENTEE~~] VOTING CLERK GENERALLY. (a) The early [~~absentee~~] voting clerk shall conduct the early [~~absentee~~] voting in each election.

(b) The clerk is an officer of the election in which the clerk serves.

(c) The clerk has the same duties and authority with respect to early [~~absentee~~] voting as a presiding election judge has with respect to regular voting, except as otherwise provided by this title.

Sec. 83.002. COUNTY CLERK AS EARLY [~~ABSENTEE~~] VOTING CLERK. The county clerk is the early [~~absentee~~] voting clerk for the county in:

(1) the general election for state and county officers and any other countywide election held at county expense;

(2) a primary election; and

(3) a special election ordered by the governor.

Sec. 83.003. CLERK FOR LESS-THAN-COUNTYWIDE ELECTIONS HELD AT COUNTY EXPENSE. (a) In a less-than-countywide election ordered by the commissioners court, county judge, county board of school trustees, or any other county authority and held at county expense, the county clerk is the early [~~absentee~~] voting clerk unless the authority appoints a person other than the county clerk.

(b) To be eligible for appointment as early [~~absentee~~] voting clerk under this section, a person must meet the requirements for eligibility for service as a presiding election judge, except that the appointee must be a qualified voter of the county and is not required to be a qualified voter of any other particular territory.

Sec. 83.004. CLERK FOR ELECTIONS ORDERED BY COUNTY AUTHORITY NOT HELD AT COUNTY EXPENSE. (a) In an election ordered by the commissioners court, county judge, county board of school trustees, or any other county authority and not held at county expense, the authority ordering the election shall appoint the early [~~absentee~~] voting clerk.

(b) If the county clerk is appointed as early [~~absentee~~] voting clerk under this section, the county clerk shall serve in that capacity, and the authority responsible for paying the expenses of the election shall reimburse the county for the time spent by the county clerk as the early [~~absentee~~] voting clerk and by the county clerk's deputies as deputy early [~~absentee~~] voting clerks.

(c) To be eligible for appointment as early [~~absentee~~] voting clerk under this section, a person other than the county clerk must meet the requirements for eligibility for service as a presiding election judge, except that the appointee must be a qualified voter of the county and is not required to be a qualified voter of any other particular territory.

Sec. 83.005. CLERK FOR CITY ELECTIONS. The city secretary is the early [~~absentee~~] voting clerk for an election ordered by an authority of a city.

Sec. 83.006. CLERK FOR ELECTIONS OF OTHER POLITICAL SUBDIVISIONS. (a) In an election ordered by an authority of a political subdivision other than a county or city, the authority ordering the election shall appoint the early [~~absentee~~] voting clerk.

(b) To be eligible for appointment as early [~~absentee~~] voting clerk under this section, a person must meet the requirements for eligibility for service as a presiding election judge, except that:

(1) an appointee must be a qualified voter of the political subdivision and is not required to be a qualified voter of any other particular territory; and

(2) in an election in which an officer of the political subdivision is a candidate, an appointee's status as an employee of the political subdivision does not make the appointee ineligible for appointment as the clerk.

Sec. 83.007. CLERK FOR OTHER ELECTIONS. (a) In an election for which this code does not provide for an early [absentee] voting clerk, the authority ordering the election shall appoint the early [absentee] voting clerk.

(b) To be eligible for appointment as early [absentee] voting clerk under this section, a person must meet the requirements for eligibility for service as a presiding election judge, except that the appointee must be a qualified voter of the territory covered by the election and is not required to be a qualified voter of any other particular territory.

Sec. 83.008. ADDITIONAL CLERKS FOR CERTAIN ELECTIONS. (a) In an election on the creation, organization, functioning, or existence of one or more political subdivisions that affects more than one political subdivision, more than one early [absentee] voting clerk may be appointed.

(b) An area within the territory covered by the election may not be served by more than one clerk.

(c) Each clerk shall serve the one or more political subdivisions designated by the authority appointing the clerk.

Sec. 83.009. EMPLOYEE OF POLITICAL SUBDIVISION SERVING AS CLERK. An employee of a political subdivision may serve as early [absentee] voting clerk in an election affecting the political subdivision if the political subdivision's governing body approves the appointment.

Sec. 83.010. PUBLIC NOTICE OF CLERK'S MAILING ADDRESS. An election order and the election notice must state the early [absentee] voting clerk's official mailing address, except for an election in which a county clerk or city secretary is the early [absentee] voting clerk under Section 83.002 or 83.005.

SUBCHAPTER B. DEPUTY CLERK

Sec. 83.031. DEPUTY EARLY [ABSENTEE] VOTING CLERK GENERALLY. (a) Deputy early [absentee] voting clerks may be appointed as provided by this subchapter to assist the early [absentee] voting clerk.

(b) A deputy is an officer of the election in which the deputy serves.

(c) A deputy early [absentee] voting clerk has the same authority as the early [absentee] voting clerk in conducting early [absentee] voting, subject to the early [absentee] voting clerk's supervision.

Sec. 83.032. DEPUTY FOR COUNTY CLERK OR CITY SECRETARY. (a) In an election in which a county clerk or a city secretary is the early [absentee] voting clerk, the county clerk or city secretary by written order may appoint one or more of that officer's permanent deputies as deputy early [absentee] voting clerks. The clerk or secretary may appoint temporary deputies to serve as deputy early [absentee] voting clerks in accordance with the law applicable to the appointment of deputies generally.

(b) For a temporary deputy to be eligible for appointment as a deputy early [absentee] voting clerk under this section, the temporary deputy must meet the requirements for eligibility for service as a presiding election judge, except that:

(1) an appointee is not required to be a qualified voter of any particular territory other than the county, in the case of an appointment by a county clerk, or the city, in the case of an appointment by a city secretary; and

(2) in an election in which the early [absentee] voting clerk is a candidate, an appointee's status as an employee of the clerk does not make the appointee ineligible for appointment as a deputy early [absentee] voting clerk.

Sec. 83.033. DEPUTY FOR OTHER CLERKS. (a) In an election in which a person other than a county clerk or a city secretary is the early [absentee] voting

clerk, the authority appointing the clerk, by written order, may appoint one or more deputy early [absentee] voting clerks.

(b) To be eligible for appointment as a deputy early [absentee] voting clerk under this section, a person must meet the requirements for eligibility for appointment as the early [absentee] voting clerk.

Sec. 83.034. EMPLOYEE OF POLITICAL SUBDIVISION SERVING AS DEPUTY. An employee of a political subdivision may serve as deputy early [absentee] voting clerk in an election affecting the political subdivision if the political subdivision's governing body approves the appointment.

SUBCHAPTER C. COMPENSATION

Sec. 83.051. COMPENSATION OF COUNTY CLERK OR CITY SECRETARY. A county clerk or a city secretary is not entitled to receive additional compensation for serving as early [absentee] voting clerk.

Sec. 83.052. COMPENSATION OF OTHER CLERKS AND THEIR DEPUTIES. An early [absentee] voting clerk who is not a county clerk or city secretary and the deputy early [absentee] voting clerks appointed to assist the clerk are entitled to compensation in an amount fixed by the authority ordering the election.

Sec. 83.053. SERVICE WITHOUT COMPENSATION BY PUBLIC EMPLOYEE. (a) An employee of the authority ordering an election who is appointed as early [absentee] voting clerk or deputy early [absentee] voting clerk may be appointed to serve without additional compensation.

(b) An employee of a political subdivision who is appointed as early [absentee] voting clerk or deputy early voting clerk for an election affecting the political subdivision may be appointed to serve without additional compensation if the political subdivision's governing body approves appointment on that basis.

SECTION 2.07. Sections 84.001, 84.003-84.006, 84.008-84.010, 84.012, and 84.013, Election Code, are amended to read as follows:

Sec. 84.001. APPLICATION REQUIRED. (a) To be entitled to vote an early voting ballot [absentee], a person who is eligible for early voting [to vote absentee] must make an application for an early voting [absentee] ballot as provided by this title.

(b) An application must be in writing and signed by the applicant.

(c) An applicant is not required to use an official application form.

(d) An applicant for a ballot to be voted by mail may apply for ballots for the main election and any resulting runoff election on the same application. The timeliness of the application for both elections is determined in relation to the main election. However, if the application is not timely for the main election, the timeliness of the application for the runoff election is determined in relation to that election.

(e) A person who has not made an application as provided by this title is not entitled to receive an early voting [absentee] ballot.

Sec. 84.003. SIGNING APPLICATION BY WITNESS. An early voting [absentee] ballot application signed for the applicant by a witness other than the early [absentee] voting clerk or a deputy must indicate the witness's relationship to the applicant or, if unrelated, indicate that fact.

Sec. 84.004. UNLAWFULLY WITNESSING APPLICATION. (a) A person commits an offense if, in the same election, the person signs an early voting [absentee] ballot application as a witness for more than one applicant.

(b) It is an exception to the application of Subsection (a) that the person signed early voting [absentee] ballot applications for more than one applicant:

(1) as an early [absentee] voting clerk or deputy early [absentee] voting clerk; or

(2) and the person is related to the additional applicants as a parent, grandparent, spouse, child, or sibling.

(c) A violation of this section does not affect the validity of an application involved in the offense.

(d) Each application signed by the witness in violation of this section constitutes a separate offense.

(e) An offense under this section is a Class B misdemeanor.

Sec. 84.0041. PROVIDING FALSE INFORMATION ON APPLICATION.

(a) A person commits an offense if the person knowingly provides false information on an application for an early voting [absentee] ballot.

(b) An offense under this section is a Class B misdemeanor.

Sec. 84.005. APPLICATION COMPONENTS. Each document that contains information required for an early voting [absentee] ballot application and that is submitted to the early [absentee] voting clerk and any envelope in which an application is submitted are part of the early voting [absentee] ballot application.

Sec. 84.006. MAKING APPLICATION FOR BALLOT VOTED BY PERSONAL APPEARANCE. An applicant for a ballot to be voted by personal appearance must make an application at the early voting [absentee] polling place when the applicant [he] desires to vote.

Sec. 84.008. SUBMITTING APPLICATION FOR BALLOT VOTED BY MAIL: PERSONAL DELIVERY. (a) An applicant for a ballot to be voted by mail may submit his application by delivering it in person to the early [absentee] voting clerk if the application is submitted not later than the close of regular business in the clerk's office on the day before the first day of the period for early voting [absentee] by personal appearance.

(b) This section does not apply to an application submitted under Chapter 101, 102, or 103.

Sec. 84.009. SUBMITTING APPLICATION FOR BALLOT VOTED BY MAIL: CONFINEMENT IN JAIL. (a) On request of the applicant, an application for a ballot to be voted by mail on the ground of confinement in jail may be submitted to the early voting clerk, at the discretion of the authority in charge of the jail, by personal delivery by the jail authority or by a designated subordinate of the authority.

(b) An application submitted under this section may not be submitted before the 20th day before election day.

Sec. 84.010. PRESERVATION OF APPLICATION. Each early voting [absentee] ballot application shall be preserved after the election for the period for preserving the precinct election records.

Sec. 84.012. CLERK TO MAIL APPLICATION FORM ON REQUEST. The early [absentee] voting clerk shall mail without charge an appropriate official application form for an early voting [absentee] ballot to each person requesting the clerk to send him an application form.

Sec. 84.013. APPLICATION FORMS FURNISHED BY SECRETARY OF STATE. The secretary of state shall maintain a supply of the official application forms for ballots to be voted by mail and shall furnish the forms in reasonable quantities without charge to individuals or organizations requesting them for distribution to voters.

SECTION 2.08. Subchapter B, Chapter 84, Election Code, is amended to read as follows:

SUBCHAPTER B. CANCELING APPLICATION FOR BALLOT
TO BE VOTED BY MAIL

Sec. 84.031. CANCELLATION OF APPLICATION. (a) An application for an early voting [absentee] ballot to be voted by mail that has been submitted to the early [absentee] voting clerk may be canceled only as provided by this subchapter.

(b) A person whose application is canceled, if otherwise eligible, may vote in the same manner as if the application had not been submitted.

Sec. 84.032. REQUEST FOR CANCELLATION. (a) A person desiring to cancel his application for a ballot to be voted by mail must submit a request for the cancellation to the early [absentee] voting clerk.

(b) A request must:

- (1) be in writing and signed by the applicant;
- (2) specify the election for which the application was made; and
- (3) except as provided by Subsection (c), be received by the early [absentee] voting clerk:

(A) not later than the third day before election day; and

(B) if an early voting [absentee] ballot sent to the applicant is returned to the clerk as a marked ballot, before the marked ballot's arrival at the address on the carrier envelope.

(c) An applicant may submit a request after the close of early voting [absentee] by personal appearance by appearing in person and:

(1) returning the ballot to be voted by mail to the early [absentee] voting clerk; or

(2) executing an affidavit that the applicant has not received the ballot to be voted by mail.

Sec. 84.033. ACTION ON REQUEST BY CLERK. (a) The early [absentee] voting clerk shall review each cancellation request to determine whether it complies with Section 84.032.

(b) If the request complies, the clerk shall cancel the application and enter on the application "canceled" and the date of cancellation. If the request does not comply, the clerk shall deny the request and enter on the request "denied" and the date of and reason for the denial.

Sec. 84.034. NOTICE OF DENIAL. Immediately after denying a cancellation request, the early [absentee] voting clerk shall notify the applicant of the denial. The notice must state the reason for the denial.

Sec. 84.035. BALLOT SENT TO APPLICANT. If the early [absentee] voting clerk cancels an application by an applicant to whom an early voting [absentee] ballot has been sent, the clerk shall:

(1) remove the applicant's name from the early voting [absentee] roster; and

(2) make any other entries in the records and take any other action necessary to prevent the ballot from being counted if returned.

Sec. 84.036. DISPOSITION OF RETURNED BALLOT. If an early voting [absentee] ballot sent to an applicant whose application is canceled is returned to the early [absentee] voting clerk as a marked ballot, the ballot shall be treated as a marked ballot not timely returned.

Sec. 84.037. PRESERVATION OF DOCUMENTS. The early [absentee] voting clerk shall preserve each cancellation request for the period for preserving the precinct election records. If the application is canceled, the clerk shall attach it to the cancellation request and preserve it with the request.

SECTION 2.09. Sections 85.001-85.004, 85.007, and 85.031-85.035, Election Code, are amended to read as follows:

Sec. 85.001. EARLY [ABSENTEE] VOTING PERIOD. (a) The period for early voting [absentee] by personal appearance begins on the 20th day before election day and continues through the fourth day before election day, except as otherwise provided by this section.

(b) For a special runoff election for the office of state senator or state representative or for a runoff primary election, the period begins on the 10th day before election day.

(c) If the date prescribed by Subsection (a) or (b) for beginning the period is a Saturday, Sunday, or legal state holiday, the period begins on the next regular business day.

(d) If because of the date for which an election is ordered it is not possible to begin early [absentee] voting by personal appearance on the prescribed date, the early [absentee] voting period shall begin on the earliest date practicable after the prescribed date as set by the authority ordering the election.

Sec. 85.002. MAIN EARLY VOTING [ABSENTEE] POLLING PLACE.

(a) Early [Absentee] voting by personal appearance for each election shall be conducted at the main early voting [absentee] polling place.

(b) In an election in which a county clerk or city secretary is the early [absentee] voting clerk under Section 83.002 or 83.005, the main early voting [absentee] polling place shall be located in any room selected by the early [absentee] voting clerk in the building that houses the main business office of the county clerk or city secretary, as applicable. However, if the commissioners court or city governing body determines that locating the polling place in that building is impracticable, the commissioners court or city governing body may designate a different location in the city in which the business office is located that is as near as practicable to the business office.

(c) In an election in which a county clerk is the early [absentee] voting clerk under Section 83.003 or 83.004, the authority authorized to appoint the clerk shall designate the location of the main early voting [absentee] polling place. The location must be in the territory covered by the election or in any room selected by the clerk in the building that houses the county clerk's main business office, whether or not the office is located in the territory covered by the election. However, if the commissioners court determines that locating the polling place in that building is impracticable, the commissioners court may designate a different location in the city in which the business office is located that is as near as practicable to the business office.

(d) In an election in which a person other than a county clerk or city secretary is early [absentee] voting clerk, the authority appointing the clerk shall designate the location of the main early voting [absentee] polling place. The location must be in the territory covered by the election.

Sec. 85.003. VOTERS SERVED BY MAIN POLLING PLACE. Any person entitled to vote an early voting ballot [absentee] by personal appearance may do so at the main early voting [absentee] polling place.

Sec. 85.004. PUBLIC NOTICE OF MAIN POLLING PLACE LOCATION. The election order and the election notice must state the location of the main early voting [absentee] polling place.

Sec. 85.007. PUBLIC NOTICE OF TIME FOR VOTING. (a) The election order and the election notice must state:

(1) the date that early [absentee] voting will begin if under Section 85.001(d) the early [absentee] voting period is to begin later than the prescribed date;

(2) the regular dates and hours that voting will be conducted under Section 85.005(b); and

(3) the dates and hours that voting on Saturday or Sunday is ordered to be conducted under Section 85.006(a).

(b) The early [absentee] voting clerk shall post notice for each election stating the dates and hours that voting on a Saturday or Sunday is ordered to be conducted under Section 85.006(b).

(c) Notice under Subsection (b) shall be posted continuously for at least 72 hours immediately preceding the first hour that the voting to which the notice pertains will be conducted. The notice shall be posted on the bulletin board used for posting notice of meetings of the commissioners court if the early [absentee] voting clerk is the county clerk, or of the city governing body if the early [absentee] voting clerk is the city secretary.

Sec. 85.031. ACCEPTING VOTER. (a) If an applicant is entitled to vote an early voting ballot [absentee] by personal appearance, the early [absentee] voting clerk shall follow the procedure for accepting a regular voter on election day, with the modifications necessary for the conduct of early [absentee] voting.

(b) A signature roster is not required to be maintained at an early voting [absentee] polling place.

(c) If an applicant does not enter his voter registration number or county election precinct of residence on the application, or enters an incorrect number or precinct, the clerk shall enter the appropriate information on the application before permitting the applicant to vote.

(d) If the applicant is accepted to vote, the clerk shall indicate beside the applicant's name on the list of registered voters or registration omissions list that he was accepted to vote by personal appearance unless the form of either list makes it impracticable to do so, and the clerk shall enter his name on the poll list.

Sec. 85.032. SECURITY OF EARLY VOTING [ABSENTEE] BALLOT BOX. (a) The procedure for rotating two ballot boxes applicable to a precinct polling place does not apply to an early voting [absentee] polling place. Once locked for use in an election, the early voting [absentee] ballot box may not be unlocked except as provided by this subtitle.

(b) The ballot box in which voters deposit their marked early voting [absentee] ballots must have two locks, each with a different key, and must be designed and constructed so that the box can be sealed to detect any unauthorized opening of the box and that the ballot slot can be sealed to prevent any unauthorized deposit in the box. The seals for the boxes must be serially numbered for each election. The procedures prescribed by Sections 127.064, 127.065, 127.066, and 127.068 governing the use of sealed ballot boxes in electronic voting system elections apply to the use of sealed ballot boxes under this title to the extent those procedures can be made applicable, with references to the central counting station being applied to the early voting [absentee] ballot board. The secretary of state shall prescribe any procedures necessary to implement the use of sealed ballot boxes in early [absentee] voting.

(c) During the period for early voting [absentee] by personal appearance, the early [absentee] voting clerk shall keep the key to one of the locks to the early voting [absentee] ballot box, and the custodian of keys to ballot boxes for preserving voted ballots after the election shall keep the key to the second lock.

(d) Each custodian shall retain possession of the key entrusted to him until it is delivered to the early voting [absentee] ballot board under Subchapter B, Chapter 87.

(e) A sealed case may be used for transferring voted early voting [absentee] ballots in accordance with procedures approved by the secretary of state.

Sec. 85.033. SECURITY OF VOTING MACHINE. At the close of early [absentee] voting each day, the early [absentee] voting clerk shall secure each voting machine used for early [absentee] voting in the manner prescribed by the secretary of state so that its unauthorized operation is prevented. The clerk shall unsecure the machine before the beginning of early [absentee] voting the following day.

Sec. 85.034. VOTER UNABLE TO ENTER POLLING PLACE. (a) Early [Absentee] voting by personal appearance by a voter who is voting outside the early voting [absentee] polling place under Section 64.009 shall be conducted in accordance with this section if voting at the early voting [absentee] polling place is by voting machine or voting device unless the early [absentee] voting clerk chooses to transport a voting device to the voter.

(b) The early [absentee] voting clerk shall furnish each accepted voter with the early voting [absentee] ballot used for voting by mail and the official ballot envelope.

(c) The voter must mark the ballot and seal it in the envelope.

(d) Immediately after sealing the ballot envelope, the voter must give it to the clerk. Before depositing the envelope in the ballot box, the clerk shall indicate on the envelope that the ballot was voted outside the polling place under this section.

(e) The secretary of state may provide for the use of envelopes or other containers instead of ballot boxes in which to deposit ballots voted under this section.

Sec. 85.035. ASSISTING VOTER. A person voting an early voting ballot [absentee] by personal appearance who is assisted in preparing the [his] ballot by election officers under Subchapter B, Chapter 64, may be assisted by a single officer.

SECTION 2.10. The heading of Subchapter C, Chapter 85, Election Code, is amended to read as follows:

SUBCHAPTER C. BRANCH EARLY VOTING [ABSENTEE] POLLING PLACE

SECTION 2.11. Sections 85.063 and 85.069-85.072, Election Code, are amended to read as follows:

Sec. 85.063. DAYS AND HOURS FOR VOTING: PERMANENT BRANCH. Early [Absentee] voting by personal appearance at each permanent branch polling place shall be conducted on the same days and during the same hours as voting is conducted at the main early voting [absentee] polling place.

Sec. 85.069. OFFICER IN CHARGE OF BRANCH POLLING PLACE. The early [absentee] voting clerk shall designate for each branch polling place a deputy early [absentee] voting clerk as the election officer in charge of the polling place.

Sec. 85.070. DELIVERY OF APPLICATIONS TO MAIN POLLING PLACE. Each early voting [absentee] ballot application submitted at a branch polling place shall be delivered by an election officer to the main polling place not later than 1 p.m. on the day after the date the application is submitted.

Sec. 85.071. DELIVERY OF BALLOTS TO MAIN POLLING PLACE. (a) During the period for early voting [absentee] by personal appearance, the ballots voted at a branch polling place, other than those cast on a voting machine, shall be:

(1) retained securely at the branch polling place in a locked room accessible only to election officers; or

(2) delivered by an election officer or designated law enforcement officer to the main early voting [absentee] polling place at the close of voting each day.

(b) The unvoted ballots at the branch polling place, other than voting machine ballots, shall be retained or delivered with the voted ballots but in a separate locked container.

(c) All voted and unvoted ballots shall be delivered by an election officer or designated law enforcement officer to the main polling place at the close of voting on the last day of voting at the branch polling place.

Sec. 85.072. BRANCH DAILY REGISTER. (a) Each day early [absentee] voting is conducted at a branch polling place, an election officer in charge of the branch shall prepare a register listing the voters who cast ballots at the branch that day.

(b) The register must include for each voter the information necessary for entering the voter's name on the early voting [absentee] roster for the election.

(c) The election officer preparing the register shall deliver it to the early [absentee] voting clerk at the close of each day's voting at the branch polling place.

(d) The early [absentee] voting clerk shall preserve each daily register for the period for preserving the precinct election records.

(e) A current copy of the register shall be kept at the branch polling place during the period voting is conducted there.

SECTION 2.12. Sections 86.001-86.005, 86.007-86.010, 86.012, and 86.014, Election Code, are amended to read as follows:

Sec. 86.001. REVIEWING APPLICATION AND PROVIDING BALLOT.

(a) The early [absentee] voting clerk shall review each application for a ballot to be voted by mail.

(b) If the applicant is entitled to vote an early voting ballot [absentee] by mail, the clerk shall provide an official ballot to the applicant as provided by this chapter.

(c) Except as provided by Section 86.008, if the applicant is not entitled to vote [absentee] by mail, the clerk shall reject the application and enter on the application "rejected" and the reason for and date of rejection. A ballot may not be provided to an applicant whose application is rejected.

(d) If the application does not include the applicant's correct voter registration number or county election precinct of residence, the clerk shall enter the appropriate information on the application before providing a ballot to the applicant.

(e) If the applicant does not have an effective voter registration for the election, the clerk shall reject the application unless the clerk can determine from the voter registrar that the applicant has submitted a voter registration application and the registration will be effective on election day.

(f) If the clerk receives an application for an election for which the clerk is not serving as early [absentee] voting clerk, the clerk shall reject the application for that election and notify the applicant of the rejection in accordance with Section 86.008.

(g) If a ballot is provided to the applicant, the clerk shall indicate beside the applicant's name on the list of registered voters that a ballot to be voted by mail was provided to the applicant [him] and the date of providing the ballot unless the form of the list makes it impracticable to do so.

Sec. 86.002. ADDITIONAL BALLOTING MATERIALS. (a) The early [absentee] voting clerk shall provide an official ballot envelope and carrier envelope with each ballot provided to a voter. In an election in which voters are authorized to vote on an affidavit of residence under Section 14.052, the clerk shall provide a form for the affidavit of residence to each affected voter.

(b) Before providing the balloting materials to the voter, the clerk shall enter on the carrier envelope the identity and date of the election.

(c) The clerk shall enter on a carrier envelope the voter's name in printed form and any other information the clerk determines necessary for proper processing of the ballot.

(d) The secretary of state shall prescribe instructions to be printed on the balloting materials for the execution and return of an affidavit of residence.

(e) If the clerk determines that the carrier envelope and other balloting materials will weigh more than one ounce when returned by mail to the clerk, the clerk shall include with the balloting materials a notice of the amount of first class postage that will be required for the return by mail of the carrier envelope and enclosed materials.

Sec. 86.003. METHOD OF PROVIDING BALLOT TO VOTER; REQUIRED ADDRESS. (a) The balloting materials for voting by mail shall be provided to the voter by mail. A ballot provided by any other method may not be counted.

(b) Subject to Subsection (c), the balloting materials shall be addressed to the mailing address specified in the voter's application. If no mailing address is specified, the materials shall be mailed to the voter's residence address unless a different address is required by Subsection (c). The election officer providing the ballot may not knowingly mail the materials to an address other than that prescribed by this section.

(c) The mailing address must be the voter's residence or temporary living quarters unless:

(1) the ground for voting by mail [absentee] is absence from the county of residence, in which case the address must be an address outside the voter's county of residence; or

(2) the ground for voting by mail [absentee] is confinement in jail, in which case the address must be the jail.

(d) If the mailing address specified in a voter's application is an address other than that prescribed by Subsection (c), the voter's ballot may not be counted.

Sec. 86.004. TIME FOR PROVIDING BALLOT TO VOTER. The balloting materials for voting by mail shall be mailed to voters as soon as practicable after the ballots become available but not earlier than the 45th day before election day.

Sec. 86.005. MARKING AND SEALING BALLOT. (a) A voter must mark a ballot voted by mail in accordance with the instructions on the ballot envelope.

(b) A voter may mark the ballot at any time after receiving it.

(c) After marking the ballot, the voter must place it in the official ballot envelope and then seal the ballot envelope, place the ballot envelope in the official carrier envelope and then seal the carrier envelope, and sign the certificate on the carrier envelope.

(d) Failure to use the official ballot envelope does not affect the validity of the ballot.

(e) After the carrier envelope is sealed by the voter, it may not be opened except as provided by Chapter 87.

Sec. 86.007. DEADLINE FOR RETURNING MARKED BALLOT. (a) A marked ballot voted by mail must arrive at the address on the carrier envelope before the time the polls are required to close on election day.

(b) If the early [absentee] voting clerk cannot determine whether a ballot arrived before the deadline, the ballot is considered to have arrived at the time the place at which the carrier envelopes are deposited was last inspected for removal of returned ballots. The clerk shall check for returned ballots, at least once before the deadline, after the normal delivery time on the last day at the place at which the carrier envelopes are deposited.

(c) A marked ballot that is not timely returned may not be counted.

Sec. 86.008. DEFECTIVE APPLICATION. (a) If on reviewing an application for a ballot to be voted by mail that was received on or before the 12th day before election day the early [absentee] voting clerk determines that the application does not fully comply with the applicable requirements prescribed by this title, the clerk shall mail or otherwise deliver an official application form to the applicant.

(b) The clerk shall include with the application form mailed or delivered to the applicant a written notice containing:

(1) a brief explanation of each defect in the noncomplying application;

(2) a statement informing the voter that he is not entitled to vote an early voting ballot [absentee] unless the application complies with all legal requirements; and

(3) instructions for submitting the second application.

(c) If an application that does not fully comply with the applicable requirements prescribed by this title is received after the 12th day before election day and before the end of the period for early voting [absentee] by personal appearance, the clerk shall mail or otherwise deliver a notice to the voter containing the information prescribed by Subdivisions (1) and (2) of Subsection (b), including a statement that the application was late, if applicable.

(d) Notwithstanding any other provisions of this code, the clerk may deliver in person to the voter a second application if the defective original application is timely

and may receive, before the deadline, the corrected application in person from the voter. If a procedure authorized by this subsection is used, it must be applied uniformly to all applications covered by this subsection. The clerk shall enter a notation on the application indicating any information added by the clerk under this subsection. A poll watcher is entitled to accompany the clerk and observe the procedures under this subsection. The secretary of state may prescribe any other procedures necessary to implement this subsection including requirements for posting notice of any deliveries.

Sec. 86.009. **PROVIDING CORRECTED BALLOT TO VOTER.** (a) If, after a ballot to be voted by mail is provided to a voter, the official ballot is changed in a way that affects the choices available to the voter in the election or the validity of the ballot provided to the voter if cast, the early [absentee] voting clerk shall mail a corrected ballot and corresponding balloting materials to the voter unless in the clerk's opinion there is not sufficient time for the voter to timely return the corrected ballot to the clerk.

(b) The clerk shall include with the balloting materials provided to the voter a written notice containing:

- (1) a brief explanation of the reason for providing another ballot; and
- (2) an instruction to destroy the defective ballot if it has not already been returned to the clerk.

(c) Before mailing the corrected ballot to the voter, the clerk shall place a notation on the carrier envelope indicating that the ballot is a corrected ballot being provided under this section. The clerk shall also indicate on the voter's application that he was provided a corrected ballot.

(d) The clerk shall prepare a list containing the name of each voter who is provided a corrected ballot under this section. The clerk shall preserve the list for the period for preserving the precinct election records.

(e) A voter's defective ballot that is timely returned to the clerk as a marked ballot shall be treated as:

- (1) a marked ballot not timely returned if the corrected ballot is timely returned as a marked ballot; or
- (2) as the voter's ballot for the election if the corrected ballot is not timely returned.

Sec. 86.010. **ASSISTING VOTER.** (a) A voter casting a ballot by mail who would be eligible under Section 64.031 to receive assistance at a polling place may select a person as provided by Section 64.032(c) to assist the voter in preparing the ballot.

(b) Assistance rendered under this section is limited to that authorized by this code at a polling place.

(c) If a voter is assisted in violation of this section, the voter's ballot may not be counted.

Sec. 86.012. **OFFICIAL BALLOT ENVELOPE.** (a) "Ballot Envelope" must be printed on the face of each officially prescribed ballot envelope for a ballot to be voted by mail.

(b) The following textual material, as prescribed by the secretary of state, must be printed on the face of each official ballot envelope and may be continued on the reverse side if necessary:

- (1) instructions for marking the ballot and returning the marked ballot to the early [absentee] voting clerk;
- (2) the deadline for returning the marked ballot to the clerk;
- (3) limitations on assistance to the voter; and
- (4) criminal penalties for unlawful assistance in preparing the ballot.

Sec. 86.014. **PUBLIC INSPECTION OF EARLY VOTING [ABSENTEE] RECORDS.** (a) A copy of an application for a ballot to be voted by mail may be

obtained from the early voting clerk 48 hours after the receipt of the application by the clerk.

(b) Originals of the applications and carrier envelopes are not available for public inspection until those materials are delivered to the general custodian of election records after the election.

SECTION 2.13. The heading of Chapter 87, Election Code, is amended to read as follows:

CHAPTER 87. PROCESSING EARLY VOTING [ABSENTEE] RESULTS

SECTION 2.14. Subchapter A, Chapter 87, Election Code, is amended to read as follows:

SUBCHAPTER A. EARLY VOTING [ABSENTEE] BALLOT BOARD

Sec. 87.001. BOARD CREATED; JURISDICTION. An early voting [absentee] ballot board shall be created in each election to process early [absentee] voting results from the territory served by the early [absentee] voting clerk.

Sec. 87.002. COMPOSITION OF BOARD. (a) The early voting [absentee] ballot board consists of a presiding judge and at least two other members.

(b) The presiding judge is appointed in the same manner as a presiding election judge. The other members are appointed by the presiding judge in the same manner as the precinct election clerks.

Sec. 87.003. ELIGIBILITY FOR BOARD MEMBERSHIP. To be eligible for appointment to the early voting [absentee] ballot board, a person must meet the requirements for eligibility for service as a presiding election judge, except that the appointee must be a qualified voter of the territory served by the early [absentee] voting clerk and is not required to be a qualified voter of any other particular territory.

Sec. 87.004. BOARD COMPOSED OF PRECINCT ELECTION OFFICERS. In an election other than the general election for state and county officers or a primary election, the authority ordering the election may direct by resolution, order, or other official action that the precinct election officers serving one of the election precincts also serve as the early voting [absentee] ballot board for the election. In that case, the presiding election judge of the precinct serves as the board's presiding officer.

Sec. 87.005. COMPENSATION OF MEMBERS. (a) Members of the early voting [absentee] ballot board are entitled to the same compensation as presiding election judges, except as provided by Subsection (b).

(b) If the board concludes its work in less than 10 hours, the members may be paid greater compensation than that regularly payable for the amount of time worked, but not to exceed the amount payable for 10 hours' work.

(c) Precinct officers serving as board members under Section 87.004 may not be compensated for both positions.

SECTION 2.15. Sections 87.023-87.026, Election Code, are amended to read as follows:

Sec. 87.023. TIME OF DELIVERY: AUTOMATICALLY COUNTED BALLOTS. (a) In an election in which early voting [absentee] ballots are to be counted by automatic tabulating equipment at a central counting station, the ballots to be automatically counted may be delivered to the board between the end of the period for early [absentee] voting by personal appearance and the closing of the polls on election day, or as soon after closing as practicable, at intervals specified by the presiding judge of the board.

(b) The early [absentee] voting clerk shall post notice of each delivery of ballots under this section that is to be made before the time for opening the polls on election day. The notice shall be posted at the main early voting [absentee] polling place continuously for at least 24 hours immediately preceding the delivery.

(c) At least 24 hours before the first delivery of ballots covered by Subsection (b), the early [absentee] voting clerk shall notify the county chairman of each political party having a nominee on the ballot of the time the first delivery is to be made.

Sec. 87.024. TIME OF DELIVERY: VOTING MACHINE ELECTION. (a) In an election in which early voting [absentee] votes by personal appearance are cast on voting machines, the jacket envelopes containing the early voting [absentee] ballots voted by mail may be delivered to the board between the end of the period for early [absentee] voting by personal appearance and the closing of the polls on election day, or as soon after closing as practicable, at a time specified by the presiding judge of the board.

(b) The early [absentee] voting clerk shall post notice of the delivery of materials under this section that is to be made before the time for opening the polls on election day. The notice shall be posted at the main early voting [absentee] polling place continuously for at least 24 hours immediately preceding the delivery.

(c) At least 24 hours before the delivery, the early [absentee] voting clerk shall notify the county chairman of each political party having a nominee on the ballot of the time the delivery is to be made.

Sec. 87.025. DELIVERING SECOND BALLOT BOX KEY TO BOARD. On request of the presiding officer of the early voting [absentee] ballot board, the custodian of the key to the second lock on the early voting [absentee] ballot boxes shall deliver his key for each box to the presiding officer.

Sec. 87.026. BYSTANDERS EXCLUDED. Except as permitted by this code, a person may not be in the meeting place of an early voting [absentee] ballot board during the time of the board's operations.

SECTION 2.16. The heading of Subchapter C, Chapter 87, Election Code, is amended to read as follows:

**SUBCHAPTER C. ACCEPTING EARLY VOTING [ABSENTEE]
BALLOT VOTED BY MAIL**

SECTION 2.17. Sections 87.042-87.044, Election Code, are amended to read as follows:

Sec. 87.042. DISPOSITION OF ACCEPTED BALLOT. (a) The early voting [absentee] ballot board shall open each carrier envelope containing an accepted ballot without defacing the certificate on the carrier envelope and remove the ballot envelope from the carrier envelope.

(b) Except as provided by Subsection (c), the board shall place the ballot envelope containing an accepted ballot in the ballot box containing the early voting [absentee] ballots voted by personal appearance.

(c) The ballot envelope may be placed in a separate container if the procedure for counting the early voting [absentee] votes cast by personal appearance is different from that for counting the votes cast by mail.

(d) An accepted ballot that was not returned in the official ballot envelope shall be treated as an accepted ballot that was returned in the ballot envelope.

Sec. 87.043. DISPOSITION OF REJECTED BALLOT. (a) The early voting [absentee] ballot board shall place the carrier envelopes containing rejected ballots in an envelope and shall seal the envelope. More than one envelope may be used if necessary.

(b) The envelope for the rejected ballots must indicate the date and identity of the election and must be labeled "rejected early voting [absentee] ballots" and signed by the board's presiding judge.

(c) A board member shall deliver the envelope containing the rejected ballots to the general custodian of election records to be preserved for the period for preserving the precinct election records. The envelope may not be placed in the box containing the voted ballots.

Sec. 87.044. DISPOSITION OF APPLICATION. (a) The early voting [absentee] ballot board shall place each application for a ballot voted by mail in its corresponding jacket envelope. If the voter's ballot was accepted, the board shall also place the carrier envelope in the jacket envelope. However, if the jacket envelope is to be used in a subsequent election, the carrier envelope shall be retained elsewhere.

(b) A board member shall deliver the jacket envelope, carrier envelope, and application in a container other than that used for the voted ballots to the general custodian of election records, to be retained for the period for preserving the precinct election records.

SECTION 2.18. Subchapter D, Chapter 87, Election Code, is amended to read as follows:

SUBCHAPTER D. PROCESSING MANUALLY COUNTED BALLOTS

Sec. 87.061. AUTHORITY RESPONSIBLE FOR COUNTING BALLOTS. The early voting [absentee] ballot board shall count the early voting [absentee] ballots that are to be counted manually.

Sec. 87.062. COUNTING BALLOTS AND PREPARING RETURNS. (a) On the direction of the presiding judge, the early voting [absentee] ballot board, in accordance with Section 85.032(b), shall open the container for the early voting [absentee] ballots that are to be counted by the board, remove the contents from the container, and remove any ballots enclosed in ballot envelopes from their envelopes.

(b) The board shall count the ballots and prepare the returns in accordance with the procedure applicable to paper ballots cast at a precinct polling place.

(c) The results of all early voting [absentee] ballots counted by the board under this subchapter shall be included in the same return.

Sec. 87.063. DISPOSITION OF BALLOTS AND OTHER ITEMS. (a) Except as provided by Subsection (b), the presiding judge of the early voting [absentee] ballot board shall deliver the early voting [absentee] ballots counted by the board, early voting [absentee] election returns, other early voting [absentee] election records, and ballot box keys, to the appropriate authorities in accordance with the procedures applicable to distribution of corresponding items from a precinct polling place using paper ballots.

(b) If part of the early voting [absentee] ballots are counted by automatic tabulating equipment at a central counting station, instead of delivering a copy of the early voting [absentee] election returns and other early voting [absentee] election records to the canvassing authority and to the general custodian of election records, those records shall be delivered to the presiding judge of the central counting station.

SECTION 2.19. Sections 87.081, 87.083, and 87.084, Election Code, are amended to read as follows:

Sec. 87.081. AUTHORITY RESPONSIBLE FOR PROCESSING VOTING MACHINE RESULTS. The early voting [absentee] votes registered on a mechanical voting machine and the early voting [absentee] write-in votes recorded on the machine shall be processed by the early voting [absentee] ballot board.

Sec. 87.083. PROCESSING RESULTS. (a) On the direction of the presiding judge, the early voting [absentee] ballot board shall process the election results for each mechanical voting machine used for early [absentee] voting in accordance with the procedure applicable to mechanical voting machines used at a precinct polling place.

(b) The results of all early voting [absentee] votes processed by the board under this subchapter shall be included in the same return. The results of any manually counted early voting [absentee] ballots shall also be included in the return.

Sec. 87.084. DISPOSITION OF RETURNS AND OTHER ITEMS. (a) Except as provided by Subsection (b), the presiding judge of the early voting [absentee] ballot board shall deliver the early voting [absentee] election returns containing the mechanical voting machine results, other early [absentee] voting records, and voting machine keys to the appropriate authorities in accordance with the procedures applicable to distribution of corresponding items from a precinct polling place using mechanical voting machines.

(b) If part of the early voting [absentee] ballots are counted by automatic tabulating equipment at a central counting station, instead of delivering a copy of the early voting [absentee] election returns and other early voting [absentee] election records to the canvassing authority and to the general custodian of election records, those records shall be delivered to the presiding judge of the central counting station.

SECTION 2.20. Subchapter F, Chapter 87, Election Code, is amended to read as follows:

SUBCHAPTER F. PROCESSING BALLOTS COUNTED AT
CENTRAL COUNTING STATION

Sec. 87.101. PREPARATION OF BALLOTS; DELIVERY TO COUNTING STATION. (a) On the direction of the presiding judge, the early voting [absentee] ballot board, in accordance with Section 85.032(b), shall open the container for the early voting [absentee] electronic system ballots that are to be counted by automatic tabulating equipment at a central counting station, remove the ballots from the container, and remove any ballots enclosed in ballot envelopes from their envelopes.

(b) On the direction of the presiding judge, the early voting [absentee] ballot board may prepare the ballots for delivery to the central counting station at any time after they are received and shall deliver them in accordance with the procedure applicable to electronic system ballots cast at a precinct polling place.

Sec. 87.102. DUPLICATING PAPER BALLOTS FOR AUTOMATIC COUNTING. (a) The authority adopting an electronic voting system in which ballots are counted at a central counting station may direct by resolution, order, or other official action that the early voting [absentee] regular paper ballots cast in an election be duplicated as electronic system ballots for automatic counting at the central counting station.

(b) Early voting [Absentee] ballots that are to be duplicated under this section shall be delivered to the central counting station as prescribed by Section 87.101 and shall be treated in the same manner as damaged electronic system ballots that are duplicated for automatic counting.

Sec. 87.103. COUNTING BALLOTS AND PREPARING RETURNS. (a) The early voting [absentee] electronic system ballots counted at a central counting station shall be tabulated separately from the ballots cast at precinct polling places and shall be separately reported on the returns.

(b) The early voting [absentee] returns prepared at the central counting station must include any early [absentee] voting results obtained by the early voting [absentee] ballot board under Subchapters D and E.

Sec. 87.104. DISPOSITION OF EARLY VOTING [ABSENTEE] BALLOT BOARD RETURNS AND OTHER RECORDS. Early voting [Absentee] returns or other early voting [absentee] election records to be delivered to the central counting station under Section 87.063(b) or 87.084(b) shall be delivered to the appropriate authorities with the counting station records.

SECTION 2.21. Sections 87.122, 87.123, and 87.124, Election Code, are amended to read as follows:

Sec. 87.122. PRECINCT EARLY VOTING [ABSENTEE] LIST. (a) For each election precinct in the territory served by the early [absentee] voting clerk, the clerk shall prepare a list containing the name, address, and voter registration

number of each person registered in the precinct who votes an early voting ballot [absentee] by personal appearance and to whom an early voting [absentee] ballot to be voted by mail is sent.

(b) If an election precinct is situated in more than one county election precinct, the list must indicate each voter's county election precinct of residence.

(c) The clerk shall deliver the list to the presiding judge of the election precinct not later than the day before election day.

(d) The clerk shall preserve a copy of each precinct early voting [absentee] list prepared for the general election for state and county officers for two years after election day.

Sec. 87.123. DELIVERING OTHER RECORDS AND SUPPLIES. Not later than the second day after election day, the early [absentee] voting clerk shall deliver:

(1) the early [absentee] voting records and supplies, other than those required to be delivered to the early voting [absentee] ballot board, to the authority to whom the corresponding precinct election records are delivered after the election; and

(2) the applications for early voting [absentee] ballots voted by personal appearance to the general custodian of election records, to be retained for the period for preserving the precinct election records.

Sec. 87.124. PRESERVATION OF EARLY VOTING [ABSENTEE] ELECTION RECORDS GENERALLY. The early voting [absentee] election returns, voted early voting [absentee] ballots, and other early voting [absentee] election records shall be preserved after the election in the same manner as the corresponding precinct election records.

SECTION 2.22. Sections 88.001-88.003, Election Code, are amended to read as follows:

Sec. 88.001. CHALLENGE AUTHORIZED. The eligibility to vote of a person voting an early voting ballot [absentee] by mail may be challenged as provided by this chapter by:

- (1) the early [absentee] voting clerk;
- (2) a member of the early voting [absentee] ballot board;
- (3) a watcher observing the early voting [absentee] ballot board; or
- (4) a registered voter who is eligible to vote in the election.

Sec. 88.002. INITIATING CHALLENGE. (a) A person other than a member of the early voting [absentee] ballot board may challenge a voter under this chapter by filing with the presiding judge of the early voting [absentee] ballot board a written statement of the challenge as provided by this section.

(b) To be effective, a statement must:

- (1) state the challenger's full name and the ground for the challenge;
- (2) state the challenger's residence address if the challenger is in the class described by Section 88.001(3) or (4);
- (3) be signed by the challenger; and
- (4) be filed before the challenged voter's ballot is accepted.

Sec. 88.003. DISPOSING OF CHALLENGE. (a) The procedure for disposing of a challenge under this chapter is the same as the procedure prescribed by this code for disposing of a challenge to a voter at a polling place, except as provided by this section.

(b) The presiding judge of the early voting [absentee] ballot board shall determine the challenge.

(c) A challenge shall be determined only on the basis of information in governmental records unless the voter appears in person to respond to the challenge.

(d) If information in a governmental record is a basis for a challenge, a copy of the record certified by its custodian may be introduced instead of the original

record. If the original record is not readily available and a certified copy is not introduced by the challenger, the presiding judge may overrule the challenge.

(e) In this chapter, "governmental record" means a document:

- (1) filed, prepared, or preserved under this code; or
- (2) belonging to, received by, or kept by the state, a political subdivision, or any branch or agency of the state or a political subdivision, for information.

(f) The presiding judge shall attach the challenger's written statement to the challenged voter's ballot application and indicate on the statement the disposition of the challenge and the date of that action. The statement is part of the application.

SECTION 2.23. The heading of Subtitle B, Title 7, Election Code, is amended to read as follows:

SUBTITLE B. SPECIAL FORMS OF EARLY [ABSENTEE] VOTING

SECTION 2.24. Sections 101.001-101.003, 101.005, 101.006, and 101.008-101.012, Election Code, are amended to read as follows:

Sec. 101.001. **ELIGIBILITY.** A person is eligible for early voting [~~to vote absentee~~] by mail as provided by this chapter if:

- (1) the person is qualified to vote in this state or, if not registered to vote in this state, would be qualified if registered; and
- (2) the person is:

(A) a member of the armed forces of the United States, or the spouse or a dependent of a member;

(B) a member of the merchant marine of the United States, or the spouse or a dependent of a member; or

(C) domiciled in this state but temporarily living outside the territorial limits of the United States and the District of Columbia.

Sec. 101.002. **GENERAL CONDUCT OF VOTING.** Voting under this chapter shall be conducted and the results shall be processed as provided by Subtitle A for early [absentee] voting by mail, except as otherwise provided by this chapter.

Sec. 101.003. **FORM AND CONTENTS OF APPLICATION.** (a) An application for a ballot to be voted under this chapter must:

- (1) be submitted on an official federal postcard application form; and
- (2) include the information necessary to indicate that the applicant is eligible to vote in the election for which the ballot is requested.

(b) In this chapter, "federal postcard application" means an application for a ballot to be voted under this chapter submitted on the official federal form prescribed under the Federal Voting Assistance Act of 1955.

Sec. 101.005. **APPLYING FOR MORE THAN ONE ELECTION IN SAME APPLICATION.** (a) A person may apply with a single federal postcard application for a ballot for any one or more elections in which the early [absentee] voting clerk to whom the application is submitted conducts early [absentee] voting.

(b) An application that does not identify the election for which a ballot is requested shall be treated as if it requests a ballot for:

- (1) each general election in which the clerk conducts early [absentee] voting; and

(2) the general primary election if the application indicates party preference and is submitted to the early [absentee] voting clerk for the primary.

(c) An application shall be treated as if it requests a ballot for a runoff election that results from an election for which a ballot is requested.

(d) An application requesting a ballot for more than one election shall be preserved for the period for preserving the precinct election records for the last election for which the application is effective.

Sec. 101.006. **FPCA VOTER REGISTRATION.** (a) The submission of a federal postcard application that complies with the applicable requirements by an

unregistered applicant constitutes registration by the applicant only for the purpose of voting in the election for which a ballot is requested.

(b) In this chapter, "FPCA registrant" means a person registered to vote under this section.

Sec. 101.008. RETURN OF VOTED BALLOT. A ballot voted under this chapter may be returned to the early [absentee] voting clerk by mail, common or contract carrier, or courier.

Sec. 101.009. NOTING FPCA REGISTRATION ON POLL LIST. For each FPCA registrant accepted to vote, a notation shall be made beside the voter's name on the early voting [absentee] poll list indicating that the voter is an FPCA registrant.

Sec. 101.010. NOTING FPCA REGISTRATION ON EARLY VOTING [ABSENTEE] ROSTER. The entry on the early voting [absentee] roster pertaining to a voter under this chapter who is an FPCA registrant must include a notation indicating that the voter is an FPCA registrant.

Sec. 101.011. EXCLUDING FPCA REGISTRANT FROM PRECINCT EARLY VOTING [ABSENTEE] LIST. A person to whom a ballot is provided under this chapter is not required to be included on the precinct early voting [absentee] list if the person is an FPCA registrant.

Sec. 101.012. OFFICIAL CARRIER ENVELOPE. The officially prescribed carrier envelope for voting under this chapter shall be prepared so that it can be mailed free of United States postage, as provided by the Federal Voting Assistance Act of 1955, and must contain the label prescribed by Section 101.007(a) for the envelope in which the balloting materials are sent to a voter. The secretary of state shall provide early [absentee] voting clerks with instructions on compliance with this section.

SECTION 2.25. The heading of Chapter 102, Election Code, is amended to read as follows:

CHAPTER 102. LATE [ABSENTEE] VOTING BY
DISABLED VOTER

SECTION 2.26. Sections 102.001, 102.002, and 102.004-102.009, Election Code, are amended to read as follows:

Sec. 102.001. ELIGIBILITY. (a) A qualified voter is eligible to vote a late [absentee] ballot as provided by this chapter if the voter has a sickness or physical condition described by Section 82.002 that originates on or after the day before the last day for submitting an application for a ballot to be voted by mail.

(b) In this chapter, "late [absentee] ballot" means a ballot voted under this chapter.

Sec. 102.002. CONTENTS OF APPLICATION. An application for a late [absentee] ballot must comply with the applicable provisions of Section 84.002 and must include or be accompanied by a certificate of a licensed physician or chiropractor or accredited Christian Science practitioner in substantially the following form:

"This is to certify that I know that _____ has a sickness or physical condition that will prevent him or her from appearing at the polling place for an election to be held on the _____ day of _____, 19____, without a likelihood of needing personal assistance or of injuring his or her health and that the sickness or physical condition originated on or after _____

"Witness my hand at _____, Texas, this _____ day of _____, 19____.

(signature of physician, chiropractor,
or practitioner)"

Sec. 102.004. REVIEWING APPLICATION AND PROVIDING BALLOTING MATERIALS. (a) An application submitted under this chapter shall be reviewed and the applicant's registration status verified by the early [absentee] voting clerk in the same manner as for early [absentee] voting by mail.

(b) The clerk shall provide the balloting materials for voting an early voting ballot [absentee] by mail to the representative who submits the voter's application. Before providing the materials, the clerk shall enter the representative's name and residence address on the application and secure the representative's signature beside the name.

(c) The voter's representative shall deliver the balloting materials in person to the voter.

(d) A late [absentee] ballot provided to a voter by any method other than that prescribed by this section may not be counted.

Sec. 102.005. MARKING AND SEALING BALLOT. A late [absentee] ballot must be marked and sealed by the voter in the same manner as an early voting [absentee] ballot voted by mail.

Sec. 102.006. METHOD OF RETURNING MARKED BALLOT; DEADLINE. (a) A marked late [absentee] ballot must be delivered to the early [absentee] voting clerk in person by the representative who submitted the voter's application. The ballot must be delivered in the official carrier envelope. A ballot returned by any other method may not be counted.

(b) The clerk shall enter the representative's name and residence address on a returned carrier envelope and secure the representative's signature beside the name.

(c) The deadline for returning a marked late [absentee] ballot is the same as that for an early voting [absentee] ballot voted by mail.

Sec. 102.007. PROCESSING RESULTS. The results of voting under this chapter shall be processed in accordance with the procedures applicable to processing early voting [absentee] ballots voted by mail.

Sec. 102.008. ENTRY ON EARLY VOTING [ABSENTEE] ROSTER. The early voting [absentee] roster must include the name of each person to whom a late [absentee] ballot is provided with a notation indicating that the ballot was a late [absentee] ballot under this chapter.

Sec. 102.009. ENTRY ON PRECINCT EARLY VOTING [ABSENTEE] LIST. The precinct early voting [absentee] list must contain the name of each person to whom a late [absentee] ballot has been provided as of the time of delivery of the list.

SECTION 2.27. The heading of Chapter 103, Election Code, is amended to read as follows:

CHAPTER 103. LATE [ABSENTEE] VOTING
BECAUSE OF DEATH IN IMMEDIATE FAMILY

SECTION 2.28. Sections 103.002-103.006, Election Code, are amended to read as follows:

Sec. 103.002. FORM AND CONTENTS OF APPLICATION. An application for a late [absentee] ballot must:

- (1) be in the form of an affidavit; and
- (2) include, in addition to the information required by the applicable provisions of Section 84.002, the date of death of the decedent and a statement of the relationship of the voter to the decedent.

Sec. 103.003. SUBMITTING APPLICATION. (a) An application for a late [absentee] ballot must be submitted in person by the applicant to the early [absentee] voting clerk at the main early voting [absentee] polling place. However, if the early voting [absentee] ballots voted by mail are processed at a location other than the main early voting [absentee] polling place, the early [absentee] voting clerk may require the application to be submitted at that location.

(b) An application may be submitted after the last day of the period for early voting [absentee] by personal appearance and before the close of business on the day before election day.

Sec. 103.004. VOTING PROCEDURE; PROCESSING RESULTS. (a) On submission of an application to the early [absentee] voting clerk, the clerk shall review the application and verify the applicant's registration status in accordance with the procedure applicable to early [absentee] voting by mail.

(b) The voting shall be conducted with the balloting materials for early voting [absentee] by mail.

(c) The voter must mark and seal the ballot in the same manner as if early voting [absentee] by mail except that the certificate on the carrier envelope need not be completed.

(d) On sealing the carrier envelope, the voter must give it to the clerk, who shall note on the envelope that the ballot is voted under this chapter.

(e) The results shall be processed in accordance with the procedures applicable to processing early voting [absentee] ballots voted by mail.

Sec. 103.005. ENTRY ON EARLY VOTING [ABSENTEE] ROSTER. The early voting [absentee] roster must include the name of each person voting a late [absentee] ballot with a notation indicating that the late [absentee] ballot was voted under this chapter.

Sec. 103.006. ENTRY ON PRECINCT EARLY VOTING [ABSENTEE] LIST. The precinct early voting [absentee] list must contain the name of each person who has voted a late [absentee] ballot as of the time of delivery of the list.

SECTION 2.29. Chapters 104, 111, 112, and 113, Election Code, are amended to read as follows:

CHAPTER 104. VOTING ON ELECTION DAY BY DISABLED VOTER
FROM
VOTING SYSTEM PRECINCT

Sec. 104.001. ELIGIBILITY. A qualified voter in whose precinct polling place voting is conducted by voting machine or voting device is eligible to vote by the early voting [absentee] procedure provided by this chapter if the voter has a sickness or physical condition that prevents him from voting in the regular manner without personal assistance or a likelihood of injuring his health.

Sec. 104.002. FORM AND CONTENTS OF APPLICATION. An application for a ballot voted under this chapter must:

(1) be in the form of an affidavit; and

(2) include, in addition to the information required by the applicable provisions of Section 84.002, a statement that the applicant has not previously voted in the election.

Sec. 104.003. TIME AND PLACE FOR VOTING. Voting under this chapter shall be conducted on election day, beginning at 8 a.m. and concluding at 2 p.m., at the main early voting [absentee] polling place, except that the voting shall begin at 7 a.m. and conclude at 7 p.m. in an election in which mechanical voting machines are used. However, if the early voting [absentee] ballots voted by mail are processed at a location other than the main early voting [absentee] polling place, the early [absentee] voting clerk may require the voting to be conducted at that location.

Sec. 104.004. VOTING PROCEDURE. (a) On submission of an application to the early [absentee] voting clerk, the clerk shall review the application and verify the applicant's registration status in accordance with the procedure applicable to early [absentee] voting by mail.

(b) The voting shall be conducted with the balloting materials for early voting [absentee] by mail.

(c) The voter must mark and seal the ballot in the same manner as if voting [absentee] by mail except that the certificate on the carrier envelope need not be completed.

(d) On sealing the carrier envelope, the voter must give it to the clerk, who shall note on the envelope that the ballot is voted under this chapter.

(e) If the voter is physically unable to enter the early voting [absentee] polling place without personal assistance or a likelihood of injuring his health, the clerk shall deliver the balloting materials to the voter at the polling place entrance or curb.

Sec. 104.005. PROCESSING RESULTS. The results of voting under this chapter shall be processed in accordance with the procedures applicable to processing early voting [absentee] ballots voted by mail.

Sec. 104.006. ENTRY ON EARLY VOTING [ABSENTEE] ROSTER. The early voting [absentee] roster must include the name of each person voting under this chapter with a notation indicating that the person voted under this chapter.

CHAPTER 111. GENERAL PROVISIONS

Sec. 111.001. RESTRICTED BALLOT. In this subtitle, "restricted ballot" means a ballot that is restricted to the offices and propositions stating measures on which a person is entitled to vote under Chapter 112, 113, or 114.

Sec. 111.002. GENERAL CONDUCT OF VOTING. The voting of restricted ballots under this subtitle shall be conducted and the results of voting shall be processed as provided by Subtitle A for early [absentee] voting, except as otherwise provided by this subtitle.

Sec. 111.003. APPLICATION REQUIRED. (a) To be entitled to vote a restricted ballot, a person must make an application for the ballot.

(b) A restricted ballot application is subject to the applicable provisions of Chapter 84.

Sec. 111.004. CONTENTS OF APPLICATION. An application for a restricted ballot must include, in addition to the information required by the applicable provisions of Section 84.002, the information necessary to indicate that the applicant is eligible to vote the restricted ballot requested.

Sec. 111.005. PREPARING RESTRICTED BALLOT. (a) The early [absentee] voting clerk shall prepare a voter's restricted ballot.

(b) If a regular paper ballot is used, the restricted ballot shall be prepared by striking from an official early voting [absentee] ballot the offices and propositions stating measures on which the voter is not entitled to vote.

(c) If an electronic system ballot is used, the restricted ballot shall be prepared by marking, punching, or otherwise identifying an official early voting [absentee] ballot so that votes on offices and propositions stating measures on which the voter is not entitled to vote may not be counted.

Sec. 111.006. MANUALLY COUNTING ELECTRONIC SYSTEM BALLOT. If a restricted electronic system ballot cannot be automatically counted with other electronic system ballots voted in the election that are to be counted automatically, the restricted ballot shall be counted manually.

Sec. 111.007. RESTRICTED BALLOT ROSTER. (a) The early [absentee] voting clerk shall maintain a roster for each election listing each person who votes a restricted ballot by personal appearance and each person to whom a restricted ballot to be voted by mail is provided.

(b) For each person listed, the roster must include:

(1) the person's name and residence address;

(2) an indication of the type of restricted ballot voted or provided, as applicable; and

(3) the date of voting or the date the ballot was mailed to the person, as applicable.

(c) Except as provided by this section, the restricted ballot roster is subject to the provisions applicable to the early voting [absentee] roster. A person included on the restricted ballot roster may not be included on the early voting [absentee] roster.

Sec. 111.008. NOTING RESTRICTED BALLOT VOTER ON POLL LIST AND REGISTERED VOTER LIST. For each voter accepted to vote a restricted ballot, a notation shall be made beside the voter's name on the early voting [absentee] poll list indicating that a restricted ballot was voted and the type of restricted ballot. If the voter's name appears on the list of registered voters used for conducting early [absentee] voting, a similar notation shall be made on that list unless the form of the list makes it impracticable to do so.

Sec. 111.009. EXCLUDING VOTER FROM PRECINCT EARLY VOTING [ABSENTEE] LIST. The name of a person voting a limited ballot by personal appearance under Chapter 112 or to whom a limited or federal ballot to be voted by mail is provided under Chapter 112 or 114 is not required to be included on the precinct early voting [absentee] list.

CHAPTER 112. VOTING LIMITED BALLOT AFTER CHANGING COUNTY OF RESIDENCE

Sec. 112.001. LIMITED BALLOT. In this code, "limited ballot" means a ballot voted under this chapter that is restricted to the offices and propositions stating measures on which a person is entitled to vote under Section 112.004.

Sec. 112.002. ELIGIBILITY. (a) After changing residence to another county, a person is eligible to vote a limited ballot by personal appearance or by mail if:

(1) the person would have been eligible to vote in the county of former residence on election day if still residing in that county;

(2) the date of the election is not more than 90 days after the new residence is established; and

(3) a voter registration for the person in the county of new residence is not effective on or before election day.

(b) A person is not eligible to vote a limited ballot by mail unless, in addition to satisfying the eligibility requirements prescribed by Subsection (a), the person is eligible for early voting [to vote absentee] by mail under Chapter 82.

Sec. 112.003. RESIDENCE IN PRECINCT SITUATED IN MORE THAN ONE COUNTY. A person who changes his county of residence may vote in the regular manner in an election ordered by an authority of a political subdivision situated in more than one county if the person resides in the same election precinct both before and after changing his county of residence and his voter registration in the county of former residence is effective at the time he offers to vote.

Sec. 112.004. OFFICES AND MEASURES ON WHICH VOTER ENTITLED TO VOTE. A person voting a limited ballot is entitled to vote only on:

(1) each office and proposition stating a measure to be voted on statewide; and

(2) each office and proposition stating a measure to be voted on in a territorial unit of which the person was a resident both before changing his county of residence and after the change.

Sec. 112.005. SUBMITTING APPLICATION FOR MAIL BALLOT. An application for a limited ballot to be voted by mail must be submitted to the early [absentee] voting clerk serving the election precinct in which the applicant resides.

Sec. 112.006. PLACE FOR VOTING BY PERSONAL APPEARANCE. (a) Except as provided by Subsection (b), a person may vote a limited ballot by personal appearance only at an early voting [absentee] polling place serving the voters of the election precinct in which the person resides.

(b) In a county with a population of more than 1,500,000, a person may vote a limited ballot by personal appearance only at the main early voting [absentee] polling place.

Sec. 112.007. **VERIFYING REGISTRATION STATUS OF APPLICANT FOR BALLOT.** Before accepting an applicant to vote a limited ballot or, in the case of an application for a limited ballot to be voted by mail, before providing a ballot to the applicant, the early [absentee] voting clerk shall verify, if possible, that the applicant does not have an effective voter registration in the county of new residence. If the person has applied in the county of new residence for a voter registration that will be effective on or before election day, the limited ballot application shall be rejected.

Sec. 112.008. **DETERMINING OFFICES AND MEASURES TO BE VOTED ON.** For each person who is to vote a limited ballot, the early [absentee] voting clerk shall determine the offices and propositions stating measures on which the person is entitled to vote and shall indicate them on the person's application.

Sec. 112.009. **PREPARING VOTING MACHINE.** Before permitting a person to vote a limited ballot on a voting machine, the early [absentee] voting clerk shall adjust the machine so that votes may be cast only on the offices and propositions stating measures on which the voter is entitled to vote.

Sec. 112.010. **SUBSTITUTING MAIL BALLOTS FOR VOTING MACHINE.** (a) If early [absentee] voting by personal appearance is conducted by voting machine, the early [absentee] voting clerk may conduct the personal appearance voting of limited ballots by using official ballots for early [absentee] voting by mail.

(b) The secretary of state may provide for the use of envelopes or other containers instead of ballot boxes for voters to deposit ballots voted under this section.

Sec. 112.011. **INFORMATION ON DISTRICT COMPOSITION.** (a) In each even-numbered year, the secretary of state shall prepare information on the territorial composition of each district for which an officer of the state government is regularly elected at the general election for state and county officers.

(b) The information must include the data necessary to enable an early [absentee] voting clerk to determine the district offices on which a voter under this chapter is eligible to vote.

(c) The secretary shall deliver the information to each county clerk before the 20th day before general primary election day.

Sec. 112.012. **NOTIFICATION TO VOTER REGISTRAR.** Not later than the 30th day after receipt of an application for a limited ballot, the early [absentee] voting clerk shall notify the voter registrar for the voter's former county of residence that the voter has applied for a limited ballot.

CHAPTER 113. VOTING PRESIDENTIAL BALLOT BY FORMER RESIDENT

Sec. 113.001. **PRESIDENTIAL BALLOT.** In this chapter, "presidential ballot" means a ballot voted under this chapter that is restricted to the offices of president and vice-president of the United States.

Sec. 113.002. **ELIGIBILITY.** A former resident of this state is eligible to vote a presidential ballot in the presidential general election by personal appearance or by mail if the former resident:

- (1) is domiciled in another state;
 - (2) was registered to vote in this state at the time he ceased to be a resident;
 - (3) would be eligible for registration to vote in this state if a resident;
- and

(4) on presidential election day will not have resided in the state of present domicile for more than 30 days and is not eligible to vote in the presidential election in that state.

Sec. 113.003. **SUBMITTING APPLICATION FOR MAIL BALLOT.** An application for a presidential ballot to be voted by mail must be submitted to the

early [absentee] voting clerk serving the county of the applicant's most recent registration to vote.

Sec. 113.004. TIME AND PLACE FOR VOTING BY PERSONAL APPEARANCE. (a) A person may vote a presidential ballot by personal appearance only at the main early voting [absentee] polling place for the county of the person's most recent registration to vote.

(b) The period for voting presidential ballots by personal appearance ends on presidential election day.

(c) Beginning on the day after the last day of the period for early voting [absentee] by personal appearance and through presidential election day, the dates and hours for voting presidential ballots by personal appearance are the dates and hours that the county clerk's main business office is regularly open for business.

Sec. 113.005. PERSONAL APPEARANCE VOTING; PROCESSING RESULTS. (a) On submission of an application for a presidential ballot to be voted by personal appearance, the early [absentee] voting clerk shall review the application and verify the applicant's registration status in accordance with the procedure applicable to early [absentee] voting by mail.

(b) The personal appearance voting shall be conducted with the balloting materials for early voting [absentee] by mail.

(c) The voter must mark and seal the ballot in the same manner as if voting [absentee] by mail except that the certificate on the carrier envelope need not be completed.

(d) On sealing the carrier envelope, the voter must give it to the clerk, who shall note on the envelope that the ballot is a presidential ballot.

(e) The results of voting a presidential ballot by personal appearance shall be processed in accordance with the procedures applicable to processing early voting [absentee] ballots voted by mail.

Sec. 113.006. CANCELING REGISTRATION. As soon as practicable after the close of voting, the early [absentee] voting clerk shall notify the voter registrar of the name of each person who applied for a presidential ballot whose name appears on the list of registered voters. On receipt of the notice, the voter registrar shall cancel the voter's registration.

SECTION 2.30. Sections 114.001-114.006 and 114.008, Election Code, are amended to read as follows:

Sec. 114.001. DEFINITIONS. In this chapter:

(1) "Federal ballot" means a ballot voted under this chapter that is restricted to federal offices only.

(2) "Federal office" means the offices of president and vice-president of the United States, United States senator, or United States representative.

(3) "United States" includes the several states and the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands, but does not include any other territory or possession of the United States.

Sec. 114.002. ELIGIBILITY. A United States citizen dwelling outside the United States is eligible to vote a federal ballot by mail if:

(1) the citizen's most recent domicile in the United States was in this state and his intent to return to this state is uncertain;

(2) the citizen would be eligible for registration as a voter in this state if a resident; and

(3) the citizen is not eligible to vote on federal offices in any other state.

Sec. 114.003. OFFICES ON WHICH VOTER ENTITLED TO VOTE. A person voting a federal ballot is entitled to vote only on each federal office to be voted on in the election precinct of the person's most recent domicile in this state.

Sec. 114.004. APPLICATION. (a) An application for a federal ballot must be submitted on an official federal postcard application form.

(b) The application must be submitted to the early [absentee] voting clerk serving the election precinct of the applicant's most recent domicile in this state.

(c) The period during which a federal ballot application may be submitted is the same as that for submitting a federal postcard application under Chapter 101.

Sec. 114.005. APPLYING FOR MORE THAN ONE ELECTION IN SAME APPLICATION. The provisions governing the application for ballots for more than one election by a single federal postcard application under Chapter 101 apply to a federal ballot application.

Sec. 114.006. DETERMINING OFFICES TO BE VOTED ON. For each voter who is to vote a federal ballot, the early [absentee] voting clerk shall determine the federal offices on which the voter is entitled to vote and indicate them on the application or the jacket envelope.

Sec. 114.008. OFFICIAL CARRIER ENVELOPE. The officially prescribed carrier envelope for voting under this chapter shall be labeled "Official Election Balloting Material—via Airmail."

SECTION 2.31. Section 13.143(b), Election Code, is amended to read as follows:

(b) A registration is effective for purposes of early voting [absentee] if it will be effective on election day.

SECTION 2.32. Sections 18.001(a) and (d), Election Code, are amended to read as follows:

(a) Before the beginning of early [absentee] voting for the first election held in a county in each voting year, the registrar shall prepare for each county election precinct a certified list of the registered voters in the precinct. The list must contain the name of each voter whose registration will be effective on the date of the first election held in the county in the voting year.

(d) An additional copy of each list shall be furnished for use in early [absentee] voting.

SECTION 2.33. Section 18.002(c), Election Code, is amended to read as follows:

(c) An additional copy of each list shall be furnished for use in early [absentee] voting.

SECTION 2.34. Section 18.003(c), Election Code, is amended to read as follows:

(c) An additional copy of each list shall be furnished for use in early [absentee] voting.

SECTION 2.35. Section 18.006, Election Code, is amended to read as follows:

Sec. 18.006. DELIVERY OF LISTS TO ELECTION AUTHORITIES. The registrar shall deliver the lists furnished under this subchapter, including the lists furnished under Section 18.007, to the appropriate authority as soon as practicable after the request but in every case in time for receipt before the beginning of early [absentee] voting by mail for the election in which the lists are to be used.

SECTION 2.36. Section 31.097, Election Code, is amended to read as follows:

Sec. 31.097. EARLY [ABSENTEE] VOTING. (a) An election services contract may provide that the county election officer's deputies may serve as deputy early [absentee] voting clerks even if the officer is not to serve as the early [absentee] voting clerk or supervise early [absentee] voting.

(b) If the county election officer is to serve as the early [absentee] voting clerk or is to provide deputies to serve as deputy early [absentee] voting clerks, the officer's written order appointing a permanent or temporary deputy of the officer as a deputy early [absentee] voting clerk is sufficient, without the necessity for an appointment by any other authority.

(c) A permanent deputy of the county election officer is not subject to the eligibility requirements of this subsection. For a temporary deputy of the officer to be eligible for appointment as a deputy early [absentee] voting clerk, the deputy must have the qualifications for appointment as a presiding election judge except that:

(1) an appointee is not required to be a qualified voter of any particular territory other than the county served by the county election officer or the political subdivision in which the election is held; and

(2) if an employee of the contracting political subdivision is appointed, the appointee's status as an employee does not disqualify him from serving in an election in which an officer of the political subdivision is a candidate.

SECTION 2.37. Section 32.112, Election Code, is amended to read as follows:

Sec. 32.112. EXPENSE OF TRAINING JUDGES. The governing body of a political subdivision may appropriate funds to:

(1) compensate its election judges, early [absentee] voting clerk, and deputy early [absentee] voting clerks in charge of early voting [absentee] polling places for attending training programs, at an hourly rate not to exceed the maximum rate of compensation of an election judge for services rendered at a precinct polling place; and

(2) pay the expenses of conducting the programs.

SECTION 2.38. Section 33.004(b), Election Code, is amended to read as follows:

(b) To be eligible to participate in the appointment under this section of a watcher for a precinct polling place, a person must be a registered voter of the precinct. To be eligible to participate in the appointment under this section of a watcher for an early voting [absentee] polling place, the meeting place of an early voting [absentee] ballot board, or a central counting station, a person must be a registered voter of the territory served by that facility.

SECTION 2.39. Sections 33.007(a), (b), and (c), Election Code, are amended to read as follows:

(a) Each appointing authority may appoint not more than two watchers for each precinct polling place, meeting place for an early voting [absentee] ballot board, or central counting station involved in the election.

(b) Each appointing authority may appoint not more than seven watchers for each main or branch early voting [absentee] polling place involved in the election. Not more than two watchers appointed by the same authority may be on duty at the same early voting [absentee] polling place at the same time.

(c) In an election in which the election officers serving at a precinct polling place also serve as an early voting [absentee] ballot board, a watcher who is appointed for the precinct polling place may observe the processing of early voting [absentee] ballots by the early voting [absentee] ballot board, or separate watchers may be appointed to observe only that activity.

SECTION 2.40. Section 33.033(a), Election Code, is amended to read as follows:

(a) A person is ineligible to serve as a watcher at a particular location if the person is the employer of or is employed by or related within the second degree by consanguinity or affinity to an election judge, an election clerk, an early [absentee] voting clerk, or a deputy clerk serving at that location.

SECTION 2.41. Sections 33.051(a) and (c), Election Code, are amended to read as follows:

(a) A watcher appointed to serve at a precinct polling place, a meeting place for an early voting [absentee] ballot board, or a central counting station must deliver a certificate of appointment to the presiding judge at the time the watcher reports for service. A watcher appointed to serve at an early voting [absentee] polling place

must deliver a certificate of appointment to the early [absentee] voting clerk or deputy clerk in charge of the polling place when the watcher first reports for service.

(c) The certificate of a watcher serving at an early voting [absentee] polling place shall be retained at the polling place until voting at the polling place is concluded. At each subsequent time that the watcher reports for service, he shall inform the clerk or deputy in charge. The officer may require the watcher to sign his name in the officer's presence, for comparison with the signature on the certificate, if the officer is uncertain of the watcher's identity.

SECTION 2.42. Section 33.053, Election Code, is amended to read as follows:

Sec. 33.053. HOURS OF SERVICE AT EARLY VOTING [ABSENTEE] POLLING PLACE. A watcher serving at an early voting [absentee] polling place may be present at the polling place at any time it is open and until completion of the securing of any voting equipment used at the polling place that is required to be secured on the close of voting each day. The watcher may serve during the hours he chooses.

SECTION 2.43. Section 33.054, Election Code, is amended to read as follows:

Sec. 33.054. HOURS OF SERVICE AT EARLY VOTING [ABSENTEE] BALLOT BOARD MEETING. (a) A watcher serving at the meeting place of an early voting [absentee] ballot board may be present at any time the board is processing or counting ballots and until the board completes its duties. The watcher may serve during the hours he chooses, except as provided by Subsection (b).

(b) A watcher may not leave during voting hours on election day without the presiding judge's permission if the board has recorded any votes cast on voting machines or counted any ballots, unless the board has completed its duties and has been dismissed by the presiding judge.

SECTION 2.44. Section 33.060(a), Election Code, is amended to read as follows:

(a) On request of a watcher, an election officer who delivers election records from a precinct polling place, an early voting [absentee] polling place, a meeting place for an early voting [absentee] ballot board, or a central counting station shall permit the watcher appointed to serve at that location to accompany the officer in making the delivery.

SECTION 2.45. Section 51.003, Election Code, is amended to read as follows:

Sec. 51.003. PROCURING AND ALLOCATING SUPPLIES. Except as otherwise provided by law, the following authority shall procure the election supplies necessary to conduct an election and shall determine the quantity of the various types of supplies to be provided to each precinct polling place and early voting [absentee] polling place:

(1) for an election ordered by the governor or a county authority, the county clerk, subject to the approval of the county election board;

(2) for a primary election, the county chairman of the political party holding the primary, subject to the approval of the party's county executive committee;

(3) for an election ordered by a city authority, the city secretary; and

(4) for an election ordered by an authority of a political subdivision other than a county or city, the secretary of the subdivision's governing body or, if the governing body has no secretary, the governing body's presiding officer.

SECTION 2.46. Section 51.004(b), Election Code, is amended to read as follows:

(b) The appropriate supplies shall be distributed to each presiding election judge not later than one hour before the polls are required to be open for voting and to the early [absentee] voting clerk before the beginning of early [absentee] voting.

SECTION 2.47. Section 51.006, Election Code, is amended to read as follows:

Sec. 51.006. PREPARING BALLOTS FOR DISTRIBUTION. The authority responsible for distributing election supplies shall package and seal each

set of ballots before their distribution and shall mark the package with the number of ballots enclosed and the range of the ballot serial numbers. If the authority is the early [absentee] voting clerk, the ballots allocated for early [absentee] voting need not be packaged and sealed.

SECTION 2.48. Section 51.007(a), Election Code, is amended to read as follows:

(a) As soon as practicable after the ballots are packaged for distribution, the authority responsible for distributing election supplies shall prepare a record of the number of ballots and the range of serial numbers on the ballots to be distributed to each presiding judge and the early [absentee] voting clerk.

SECTION 2.49. Section 62.014(b), Election Code, is amended to read as follows:

(b) An election officer shall enter "early voting [absentee] voter" beside the name of each person on the list of registered voters whose name appears on the precinct early voting [absentee] list furnished by the early [absentee] voting clerk.

SECTION 2.50. Section 66.023, Election Code, is amended to read as follows:

Sec. 66.023. CONTENTS OF ENVELOPE NO. 2. Envelope no. 2 must contain:

- (1) a copy of the precinct returns;
- (2) a tally list;
- (3) the original of the poll list;
- (4) the signature roster;
- (5) the precinct early voting [absentee] list;
- (6) any affidavits completed at the polling place except affidavits required to be placed in envelope no. 4; and
- (7) any certificates of appointment of watchers.

SECTION 2.51. Section 67.004(f), Election Code, is amended to read as follows:

(f) On completion of the canvass, the presiding officer of the canvassing authority shall deliver the precinct returns, tally lists, and early voting precinct [absentee-vote] report used in the canvass to the general custodian of election records. The custodian shall preserve them for the period for preserving the precinct election records.

SECTION 2.52. Section 67.017(a), Election Code, is amended to read as follows:

(a) After each election for a statewide office or the office of United States representative, state senator, or state representative, the county clerk shall prepare a report of the number of votes, including early voting [absentee] votes, received in each county election precinct for each candidate for each of those offices. In a presidential election year, the report must include the number of votes received in each precinct for each set of candidates for president and vice-president of the United States.

SECTION 2.53. Section 68.033, Election Code, is amended to read as follows:

Sec. 68.033. COUNTING OF EARLY VOTING [ABSENTEE] BALLOTS. The early voting [absentee] ballot board shall count the early voting [absentee] ballots periodically throughout the day.

SECTION 2.54. Section 68.034(b), Election Code, is amended to read as follows:

(b) The county clerk shall transmit the complete or partial results of the early [absentee] voting for the appropriate races at 7 p.m. on election day. If only partial results are available, the results shall be transmitted periodically until complete.

SECTION 2.55. Section 123.006, Election Code, is amended to read as follows:

Sec. 123.006. **ADOPTION OF VOTING SYSTEM FOR EARLY [ABSENTEE] VOTING.** (a) A voting system may be adopted for use in early [absentee] voting only, regular voting on election day only, or both.

(b) A voting system may be adopted for use in early [absentee] voting by personal appearance only, early [absentee] voting by mail only, or both.

(c) Only one kind of voting system may be used for early [absentee] voting by mail. A voting system and regular paper ballots may not both be used in the same election for early [absentee] voting by mail.

SECTION 2.56. Section 125.006(c), Election Code, is amended to read as follows:

(c) If the presiding judge determines that the equipment cannot be promptly repaired or replaced and that voting cannot be continued by using only the remaining operational equipment without substantially interfering with the orderly conduct of the election, voting at that polling place may be conducted by one of the following methods in addition to, or instead of, using remaining operational equipment:

(1) using another voting system that has been adopted for use in the election;

(2) using regular paper ballots, whether early voting [absentee] ballots or ballots for regular voting on election day; or

(3) having voters manually mark the electronic system ballots that were furnished for use with the malfunctioning equipment and having the ballots processed as regular paper ballots.

SECTION 2.57. Section 141.034, Election Code, is amended to read as follows:

Sec. 141.034. **LIMITATION ON CHALLENGE OF APPLICATION.** An application for a place on the ballot may not be challenged for compliance with the applicable requirements as to form, content, and procedure after the day before the beginning of early [absentee] voting by personal appearance for the election for which the application is made.

SECTION 2.58. Section 145.003(c), Election Code, is amended to read as follows:

(c) A candidate in an election other than the general election for state and county officers may be declared ineligible before the beginning of early [absentee] voting by personal appearance by the authority with whom an application for a place on the ballot for the office sought by the candidate is required to be filed.

SECTION 2.59. Sections 145.092(a) and (c), Election Code, are amended to read as follows:

(a) Except as otherwise provided by this section, a candidate may not withdraw from an election after 5 p.m. of the second day before the beginning of early [absentee] voting by personal appearance.

(c) A candidate in a runoff election following a main election subject to Subsection (a) may not withdraw from the election after 5 p.m. of the 10th day after the date of the main election or 5 p.m. of the second day before the beginning of early [absentee] voting by personal appearance for the runoff, whichever is earlier.

SECTION 2.60. Section 145.094(a), Election Code, is amended to read as follows:

(a) The name of a candidate shall be omitted from the ballot if the candidate:

(1) dies before the second day before the date of the deadline for filing the candidate's application for a place on the ballot;

(2) withdraws or is declared ineligible before 5 p.m. of the second day before the beginning of early [absentee] voting by personal appearance, in an election subject to Section 145.092(a); or

(3) withdraws or is declared ineligible before 5 p.m. of the 36th day before election day, in an election subject to Section 145.092(b).

SECTION 2.61. Section 145.096(a), Election Code, is amended to read as follows:

(a) Except as provided by Subsection (b), a candidate's name shall be placed on the ballot if the candidate:

(1) dies on or after the second day before the deadline for filing the candidate's application for a place on the ballot;

(2) is declared ineligible after 5 p.m. of the second day before the beginning of early [absentee] voting by personal appearance, in an election subject to Section 145.092(a); or

(3) is declared ineligible after 5 p.m. of the 36th day before election day, in an election subject to Section 145.092(b).

SECTION 2.62. Section 162.003, Election Code, is amended to read as follows:

Sec. 162.003. **AFFILIATION BY VOTING IN PRIMARY.** A person becomes affiliated with a political party when the person:

(1) is accepted to vote in the party's primary election; or

(2) applies for and is provided an early voting [absentee] or limited primary ballot to be voted by mail.

SECTION 2.63. Section 162.005, Election Code, is amended to read as follows:

Sec. 162.005. **AFFILIATION PROCEDURE: EARLY VOTING [~~ABSENTEE~~] BY MAIL.** The early [absentee] voting clerk in a general primary election shall provide an affiliation certificate with each early voting [absentee] or limited ballot to be voted by mail. The certificate is not required to be provided to an applicant for a runoff primary ballot unless the applicant requests it.

SECTION 2.64. Section 172.124(a), Election Code, is amended to read as follows:

(a) For each primary election, the county chairman shall prepare a report of the number of votes, including early voting [absentee] votes, received in each county election precinct by each candidate for a statewide office or the office of United States representative, state senator, or state representative, as provided by Section 67.017 for the report of precinct results for a general election.

SECTION 2.65. Section 173.003, Election Code, is amended to read as follows:

Sec. 173.003. **EXPENSES INCURRED BY COUNTY.** Except as otherwise provided by law, the county shall pay all the expenses incurred in connection with early [absentee] voting in a primary election, except expenses relating to the printing of early voting [absentee] ballots, and any other expenses incurred by a county authority in connection with a primary election.

SECTION 2.66. Section 212.112(c), Election Code, is amended to read as follows:

(c) If more than one method of voting is used for early [absentee] voting, each additional method of voting used for the early [absentee] voting shall be treated as constituting an additional precinct in determining the amount of a recount deposit for a recount of early voting [absentee] votes.

SECTION 2.67. Section 212.134, Election Code, is amended to read as follows:

Sec. 212.134. **EARLY VOTING [~~ABSENTEE~~] VOTES TREATED AS PRECINCT.** (a) Except as provided by Subsection (b), for the purpose of specifying which election precincts are to be included in a recount, all the early voting [absentee] votes canvassed by a local canvassing authority shall be treated as constituting one election precinct.

(b) Each early voting [absentee] polling place in which voting machines were used shall be treated as constituting one election precinct.

SECTION 2.68. Section 213.003(a), Election Code, is amended to read as follows:

(a) Except as provided by Subsections (b) and (c), to be eligible for appointment as a member of a recount committee, a person must be a qualified voter of the political subdivision served by the recount supervisor and must otherwise meet the eligibility requirements prescribed by this code for precinct election judges and clerks. A person who served as an election judge or as judge of the early voting [absentee] ballot board in the election is ineligible to serve as a member of the recount committee. An officer of a political party is eligible to serve as a member of the committee.

SECTION 2.69. Section 213.006(c), Election Code, is amended to read as follows:

(c) Early voting [Absentee] ballots rejected by the early voting [absentee] ballot board may not be counted in the recount.

SECTION 2.70. Section 231.007(c), Election Code, is amended to read as follows:

(c) The district court may set the election for a date that shortens the regular period for early [absentee] voting, but the date must make it possible for early [absentee] voting by personal appearance to begin not later than the 10th day before election day. In the order setting the date for the election, the court shall also set the date for beginning early [absentee] voting by personal appearance if it is not possible to begin on the regular day.

SECTION 2.71. Sections 232.013(b) and (c), Election Code, are amended to read as follows:

(b) The date set for the runoff may not provide a longer interval between the court order and the runoff than is required or authorized by law between the main election and a regularly scheduled runoff. The date may provide a shorter interval, but the interval must make it possible for early [absentee] voting by personal appearance to begin not later than the 10th day before election day.

(c) If the runoff is set for a date that shortens the regular period for early [absentee] voting, the order setting the date of the election must specify the date for beginning early [absentee] voting by personal appearance.

SECTION 2.72. Section 271.006, Election Code, is amended to read as follows:

Sec. 271.006. EARLY [ABSENTEE] VOTING. (a) The governing bodies of the political subdivisions participating in a joint election shall decide whether to conduct their early [absentee] voting jointly. The governing bodies that decide to conduct joint early [absentee] voting shall appoint one of their early [absentee] voting clerks as the early [absentee] voting clerk for the joint early [absentee] voting.

(b) The joint early [absentee] voting shall be conducted at the early voting [absentee] polling place or places at which the early [absentee] voting clerk regularly conducts early [absentee] voting for the clerk's political subdivision.

(c) The regular early [absentee] voting clerk for each political subdivision participating in the joint early [absentee] voting shall receive applications for early voting [absentee] ballots to be voted by mail in accordance with Title 7. The remaining procedures for conducting the political subdivision's early [absentee] voting by mail shall be completed by the regular early [absentee] voting clerk or by the early [absentee] voting clerk for the joint early [absentee] voting, at the discretion of the governing body of each political subdivision participating in the joint early [absentee] voting.

(d) If a governing body decides not to participate in the joint early [absentee] voting, the early [absentee] voting for that political subdivision shall be conducted in accordance with Title 7, except that the early [absentee] voting may be conducted at common polling places.

SECTION 2.73. Section 272.004, Election Code, is amended to read as follows:

Sec. 272.004. USE OF BILINGUAL MATERIALS FOR EARLY [ABSENTEE] VOTING. Bilingual election materials shall be used for early [absentee] voting in each election in which bilingual election materials are used.

SECTION 2.74. Section 272.005(c), Election Code, is amended to read as follows:

(c) Except as provided by Section 272.006, the following materials must contain a Spanish translation beneath the English text:

(1) the official affidavit forms and other official forms that voters are required to sign in connection with voting;

(2) the official application forms for early voting [absentee] ballots;

(3) written instructions furnished to early voting [absentee] voters; and

(4) the balloting materials furnished to voters in connection with early [absentee] voting by mail.

SECTION 2.75. Sections 272.006(b) and (c), Election Code, are amended to read as follows:

(b) If a separate translation of the ballot is made under Subsection (a), the translation must be furnished to each voter to whom an early voting [absentee] ballot to be voted by mail is provided.

(c) An item specified by Section 272.005(c) is not required to contain a Spanish translation if:

(1) for an item used in connection with voting at a polling place:

(A) a separate translation of the item is made available to the voter on request; and

(B) the item contains a statement in Spanish informing the voter of the availability of the translation; or

(2) for an item used in connection with early [absentee] voting by mail, a separate translation of the item is furnished with the item to the voter.

SECTION 2.76. Section 130.071(d), Education Code, is amended to read as follows:

(d) The governing board of the junior college district shall procure the election supplies necessary to conduct the election and shall determine the quantity of the various types of supplies to be provided for use at each precinct polling place and early voting [absentee] polling place.

SECTION 2.77. Section 130.072(d), Education Code, is amended to read as follows:

(d) The governing board of the junior college district shall procure the election supplies necessary to conduct the election and shall determine the quantity of the various types of supplies to be provided for use at each precinct polling place and early voting [absentee] polling place.

SECTION 2.78. Section 130.087(f), Education Code, is amended to read as follows:

(f) The governing body of the school district or county, as applicable, shall procure the election supplies necessary to conduct the election and shall determine the quantity of the various types of supplies to be provided for use at each precinct polling place and early voting [absentee] polling place.

SECTION 2.79. Section 46.04(a), Penal Code, is amended to read as follows:

(a) A person commits an offense if, with a firearm, or explosive weapon, or illegal knife, he intentionally, knowingly, or recklessly goes:

(1) on the premises of a school or an educational institution, whether public or private, unless pursuant to written regulations or written authorization of the institution;

(2) on the premises of a polling place on the day of an election or while early voting [~~absentee balloting~~] is in progress;

(3) in any government court or offices utilized by the court, unless pursuant to written regulations or written authorization of the court; or

(4) on the premises of a racetrack.

SECTION 2.80. This article is intended only to change the terminology involving "absentee voting" to appropriate terminology using "early voting." The reenactment of text in this article to effect this change in terminology does not prevail over a conflicting change in law made by another Act of the 72nd Legislature, Regular Session, 1991, and that conflicting change is given effect with the change in terminology made by this article.

ARTICLE 3. EFFECTIVE DATE

SECTION 3.01. (a) Except as otherwise provided by this section, this Act takes effect September 1, 1991.

(b) This Act does not take effect until it is approved or precleared under the federal Voting Rights Act (42 U.S.C. Secs. 1971, 1973, et seq.). An objection to any provision of this Act interposed under the federal Voting Rights Act does not affect the validity of the remainder of this Act.

(c) Section 84.011(b), Election Code, as added by Article 1 of this Act, applies only to official application forms for an absentee ballot to be voted by mail furnished by the secretary of state on or after September 1, 1993. An official application form for an absentee ballot to be voted by mail that was furnished by the secretary of state before that date remains valid.

ARTICLE 4. EMERGENCY

SECTION 4.01. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Amendment - Delco

Amend C.S.S.B. 1234 as follows:

(1) On page 1, line 12, strike "if applicable."

(2) On page 11, between lines 26 and 27, insert a new Section 1.12, and renumber subsequent sections accordingly, to read as follows:

SECTION 1.12. Effective September 1, 1993, Section 85.062(d), Election Code, is amended to read as follows:

(d) In a primary election, the general election for state and county officers, or a special election to fill a vacancy in the legislature or in congress:

(1) the commissioners court of a county with a population of 400,000 or more shall establish one or more early voting polling places other than the main early voting polling place in each state representative district containing territory covered by the election, except that the polling place or places shall be established in the state senatorial or congressional district, as applicable, in a special election to fill a vacancy in the office of state senator or United States representative; and

(2) the commissioners court of a county with a population of 100,000 [200,000] or more but less than 400,000 shall establish one or more early voting polling places other than the main early voting polling place in each commissioners precinct containing territory covered by the election.

(3) On page 14, line 4, between "election" and "in", insert "in a county with a population of more than 2.5 million and a primary election in a county with a population of more than 1 million".

(4) On page 28, strike lines 19-27, and on page 29, strike line 1, and substitute the following:

Sec. 87.1231. EARLY VOTING [ABSENTEE] VOTES REPORTED BY PRECINCT AND POLLING PLACE LOCATION. Not later than the time of the local canvass, the early [absentee] voting clerk shall deliver to the local canvassing authority a report of the total number of early voting [absentee] votes for each candidate or measure by election precinct and by early voting polling place location. The report may reflect the total for votes by mail and the total for votes by personal appearance.

(5) On page 113, line 15, between "section" and ", this" insert "and by Section 1.12 of Article 1 of this Act".

The amendments were read.

On motion of Senator Carriker and by unanimous consent, the Senate concurred in the House amendments to S.B. 1234 by a viva voce vote.

CONFERENCE COMMITTEE ON HOUSE BILL 591

Senator Lucio called from the President's table for consideration at this time the request of the House for a Conference Committee to adjust the differences between the two Houses on H.B. 591 and moved that the request be granted.

The motion prevailed.

The President Pro Tempore asked if there were any motions to instruct the Conference Committee on H.B. 591 before appointment.

There were no motions offered.

Accordingly, the President Pro Tempore announced the appointment of the following conferees on the part of the Senate on the bill: Senators Lucio, Chair; Moncrief, Brown, Leedom, Tejada.

(President in Chair)

COMMITTEE SUBSTITUTE

SENATE BILL 1374 ON SECOND READING

Senator Dickson asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

C.S.S.B. 1374, Relating to the operation of strobe lights.

There was objection.

Senator Dickson then moved to suspend the regular order of business and take up C.S.S.B. 1374 for consideration at this time.

The motion prevailed by the following vote: Yeas 23, Nays 5.

Yeas: Armbrister, Barrientos, Bivins, Carriker, Dickson, Ellis, Green, Haley, Harris of Tarrant, Harris of Dallas, Johnson, Lucio, Lyon, Parker, Ratliff, Rosson, Sibley, Sims, Tejada, Truan, Turner, Whitmire, Zaffirini.

Nays: Brooks, Brown, Krier, Leedom, Moncrief.

Absent: Glasgow, Henderson, Montford.

The bill was read second time.

Senator Dickson offered the following amendment to the bill:

Amend C.S.S.B. 1374 by inserting new Section 2 as follows and renumbering subsequent sections accordingly:

Section 2. This act shall not apply to obstruction lighting that is installed prior to June 1, 1991, on a structure that is

- 1) 500 feet or more in height, or

2) operated by television or radio broadcast stations licensed by the Federal Communications Commission.

The amendment was read and was adopted by a viva voce vote.

RECORD OF VOTE

Senator Brooks asked to be recorded as voting "Nay" on the adoption of the amendment.

(Senator Whitmire in Chair)

On motion of Senator Dickson and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment by a viva voce vote.

RECORD OF VOTE

Senator Brooks asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

COMMITTEE SUBSTITUTE SENATE BILL 1374 ON THIRD READING

Senator Dickson moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that C.S.S.B. 1374 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 24, Nays 5.

Yeas: Armbrister, Barrientos, Bivins, Carriker, Dickson, Ellis, Glasgow, Green, Haley, Harris of Tarrant, Harris of Dallas, Johnson, Lucio, Lyon, Parker, Ratliff, Rosson, Sibley, Sims, Tejeda, Truan, Turner, Whitmire, Zaffirini.

Nays: Brooks, Brown, Krier, Leedom, Moncrief.

Absent: Henderson, Montford.

The bill was read third time and was passed by a viva voce vote.

RECORD OF VOTE

Senator Brooks asked to be recorded as voting "Nay" on the final passage of the bill.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 787

Senator Sims submitted the following Conference Committee Report:

Austin, Texas
May 21, 1991

Honorable Bob Bullock
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on S.B. 787 have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

SIMS
BROOKS
BIVINS
SIBLEY

CRADDICK
HURY
GLAZE
CULBERSON

ARMBRISTER
On the part of the Senate

EARLEY
On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to the amount of the sales and use tax municipalities may levy for the benefit of certain industrial development corporations.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 4A, Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), is amended by amending Subsections (c) and (h) and adding Subsection (1) to read as follows:

(c) The city may levy a sales and use tax for the benefit of a corporation under this section if the tax is authorized by a majority of the qualified voters of the city voting at an election called and held for that purpose. If the city adopts the tax, there is imposed a tax on the receipts from the sale at retail of taxable items within the city at the [a] rate approved by the voters. The rate must be equal to one-eighth, one-fourth, three-eighths, or one-half of one percent. The city may not adopt a rate that would result in a combined rate of all sales and use taxes, including the tax under this section, [the lesser of one-half of one percent or the amount equal to two percent minus the combined rate of all sales and use taxes] imposed by the city and other political subdivisions of this state having territory in the city that exceeds two percent. An election adopting a rate that exceeds the limit on the combined rate has no effect. There is also imposed an excise tax on the use, storage, or other consumption within the city of tangible personal property purchased, leased, or rented from a retailer during the period that the tax is effective within the city. The rate of the excise tax is the same as the rate of the sales tax portion of the tax and is applied to the sales price of the tangible personal property.

(h) Except as provided by this subsection, the[The] corporation may not undertake a project the primary purpose of which is to provide transportation facilities,[sewage or] solid waste disposal facilities, or air or water pollution control facilities[- or facilities for furnishing water to the general public]. However, the corporation may provide those facilities to benefit property acquired for a project having another primary purpose. The corporation may undertake a municipal water supply project and provide related transmission and treatment facilities connected with a municipality owned or operated water system or sewage system. The corporation may undertake a project the primary purpose of which is to provide port-related facilities to support waterborne commerce.

(1) In an election to adopt the tax under this section, the ballot shall be printed to provide for voting for or against the proposition: "The adoption of an additional (rate of tax) of one percent sales and use tax for the promotion and development of new and expanded business enterprises."

SECTION 2. Section 4B, Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), is amended by amending Subsection (c) to read as follows:

(c) The board of directors of a corporation under this section consists of seven directors who are appointed by the governing body of the eligible city for two-year terms of office. A director may be removed by the governing body of the eligible city at any time without cause. At least four directors must be persons who are members of the governing body of the eligible city, and the remaining three directors shall be persons who are not employees, officers, or, members of the governing body of the eligible city. [At least three directors must be persons who are not employees, officers, or members of the governing body of the eligible city. Members of the governing body, officers, and employees of the eligible city may be, but are not required to be, appointed to serve as any of the remaining directors of the board.]

A majority of the entire membership of the board is a quorum. The board shall conduct all meetings within the boundaries of the eligible city. The board shall appoint a president, a secretary, and other officers of the corporation that the governing body of the eligible city considers necessary. The corporation's registered agent must be an individual resident of the state and the corporation's registered office must be within the boundaries of the eligible city.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The Conference Committee Report was read and was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 847

Senator Brooks submitted the following Conference Committee Report:

Austin, Texas
May 17, 1991

Honorable Bob Bullock
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on H.B. 847 have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

BROOKS
SIMS
LUCIO
CARRIKER
BROWN

On the part of the Senate

SHELLEY
JACKSON
TURNER
KUEMPEL
HARRIS

On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

GUEST PRESENTED

Senator Truan was recognized and introduced a constituent from Corpus Christi, Rudy T. Garza.

The Senate welcomed Mr. Garza.

SENATE BILL 1135 WITH HOUSE AMENDMENT

Senator Green called S.B. 1135 from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment - B. Hunter

Amend S.B. 1135 by substituting the following:

A BILL TO BE ENTITLED
AN ACT

relating to student center fees at the University of Houston-Clear Lake.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter E, Chapter 54, Education Code, is amended by adding Section 54.539 to read as follows:

Sec. 54.539. STUDENT CENTER FEE; UNIVERSITY OF HOUSTON-CLEAR LAKE. (a) The board of regents of the University of Houston System may levy and collect a student center fee, not to exceed \$40 per student for each regular semester and not to exceed \$20 per student for each term of the summer session for the sole purpose of financing, constructing, operating, maintaining, and improving a student center for the University of Houston-Clear Lake. The fee is in addition to any other use or service fee authorized. The student center fee initially levied must be in an amount approved by a majority vote of the students.

(b) The student center fees shall be deposited to an account known as The University of Houston-Clear Lake Student Center Fee Account, and shall be placed under the control of and subject to the order of the University Life Council. The council shall annually submit to the board of regents a complete and itemized budget, a recommended fee level, and a complete report of all activities conducted during the past year and all expenditures made incident to those activities. The board of regents shall make the changes in the budget it determines are necessary before approving the budget.

(c) The board may increase the student center fee levied under this section. However, if the increase is more than 10 percent above the previous fiscal year's fee, it must be approved by a majority of students voting in an election called for that purpose.

SECTION 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read.

Senator Green moved that the Senate do not concur in the House amendment but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the Conference Committee on S.B. 1135 before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Green, Chair; Whitmire, Henderson, Brooks, Armbrister.

SENATE BILL 774 WITH HOUSE AMENDMENT

Senator Glasgow called S.B. 774 from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment - Madla

Amend S.B. 774 by substituting the following:

A BILL TO BE ENTITLED
AN ACT

relating to the practice of optometry.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1.02, Texas Optometry Act (Article 4552-1.02, Vernon's Texas Civil Statutes), is amended by amending Subdivisions (1), (2), (3), (5), and (6) and adding Subdivisions (7) and (8) to read as follows:

(1) The "practice of optometry" is defined to be the employment of objective or subjective means, with or without the use of topical ocular pharmaceutical agents [drugs], for the purpose of ascertaining and measuring the powers of vision of the human eye, examining and diagnosing visual defects, abnormal conditions, and diseases of the human eye and adnexa, and fitting lenses or prisms to correct or remedy any defect or abnormal condition of vision. Nothing herein shall be construed to permit optometrists to treat the eyes for any defect whatsoever in any manner nor to administer nor to prescribe any drug or physical treatment whatsoever, unless such optometrist is a regularly licensed physician or surgeon under the laws of this state. Nothing herein shall be construed to prevent selling ready-to-wear spectacles or eyeglasses as merchandise at retail, nor to prevent simple repair jobs.

(2) "Ascertaining and measuring the powers of vision of the human eye" shall be construed to include:

(A) The examination of the eye to ascertain the presence of defects or abnormal conditions which may be corrected, remedied, or relieved, or the effects of which may be corrected, remedied, or relieved by the use of lenses or prisms, or

(B) The employment of any objective or subjective means to determine the accommodative or refractive condition or the range or powers of vision of muscular equilibrium of the human eye, or

(C) The employment of any objective or subjective means for the examination of the human vision system [eye] for the purpose of ascertaining any departure from the normal, measuring its power of vision or adapting lenses or prisms for the aid or relief thereof, and it shall be construed as a violation of this Act, for any person not a licensed optometrist, therapeutic optometrist, or [a]licensed physician to do any one act or thing, or any combination of acts or things, named or described in this subdivision; provided, that nothing herein shall be construed to permit optometrists to treat the eye for any defect whatsoever in any manner, nor to administer any drug or physical treatment whatsoever, unless said optometrist is a therapeutic optometrist or a duly licensed physician and surgeon, under the laws of this state.

(3) "Fitting lenses or prisms" shall be construed to include:

(A) Prescribing or supplying, directly or indirectly, lenses or prisms, by the employment of objective or subjective means or the making of any measurements whatsoever involving the eyes or the optical requirements thereof; provided, however, that nothing in this Act shall be construed so as to prevent an ophthalmic dispenser, who does not practice optometry or therapeutic optometry, from measuring interpupillary distances or from making facial measurements for the purpose of dispensing, or adapting ophthalmic prescriptions or lenses, products and accessories in accordance with the specific directions of a written prescription signed by a licensed physician, [or] optometrist, or therapeutic optometrist; provided, however, the fitting of contact lenses shall be done only by a licensed physician, [or] licensed optometrist, or therapeutic optometrist as defined by the laws of this state, but the lenses may be dispensed by an ophthalmic dispenser

on a fully written contact lens prescription issued by a licensed physician, [or] optometrist, or therapeutic optometrist, in which case the ophthalmic dispenser may fabricate or order the contact lenses and dispense them to the patient with appropriate instructions for the care and handling of the lenses, and may make mechanical adjustment of the lenses, but shall make no measurements of the eye or the cornea or evaluate the physical fit of the lenses, by any means whatsoever; provided that the physician, [or] optometrist, or therapeutic optometrist who writes or issues the prescription shall remain professionally responsible to the patient.

(B) The adaptation or supplying of lenses or prisms to correct, relieve or remedy any defect or abnormal condition of the human eye or to correct, relieve or remedy or attempt to correct, relieve or remedy the effect of any defect or abnormal condition of the human eye.

(C) It shall be construed as a violation of this Act for any person not a licensed optometrist, therapeutic optometrist, or [a-licensed] physician to do any one thing or act, or any combination of things or acts, named or described in this Article.

(5) For the purposes of this Act, "dispensing optician" or "ophthalmic dispenser" means a person not licensed as an optometrist, therapeutic optometrist, or physician who sells or delivers to the consumer fabricated and finished spectacle lenses, frames, contact lenses, or other ophthalmic devices prescribed by an optometrist, therapeutic optometrist, or physician.

(6) Nothing in this Act shall be construed as preventing a licensed optometrist or therapeutic optometrist from performing vision therapy, hand-eye coordination exercises, visual training, and developmental vision therapy, or from the evaluation and remediation of learning or behavioral disabilities associated with or caused by a defective or abnormal condition of vision.

(7) The "practice of therapeutic optometry" means the employment of objective or subjective means for the purpose of ascertaining and measuring the powers of vision of the human eye, examining and diagnosing visual defects, abnormal conditions, and diseases of the human eye and adnexa, fitting lenses or prisms to correct or remedy a defect or abnormal condition of vision, administering or prescribing a drug or physical treatment in the manner authorized by this Act, and treating the eye and adnexa as authorized by this Act without the use of surgery or laser surgery.

(8) "Adnexa" means the lids and drainage system of the eye.

SECTION 2. The Texas Optometry Act (Article 4552-1.01 et seq., Vernon's Texas Civil Statutes) is amended by adding Section 1.03 to read as follows:

Sec. 1.03. THERAPEUTIC OPTOMETRISTS. (a) A person may not engage in the practice of therapeutic optometry without holding a license issued by the Texas Optometry Board.

(b) A therapeutic optometrist may administer and prescribe ophthalmic devices, over-the-counter oral medications, and topical ocular pharmaceutical agents, other than antiviral agents and antiglaucoma agents, for the purpose of diagnosing and treating visual defects, abnormal conditions, and diseases of the human eye and adnexa and may remove superficial foreign matter and eyelashes from the external eye or adnexa. If a therapeutic optometrist utilizes topical steroids of a strength of one percent concentration to treat a condition and the condition has not substantially improved within seven days of the initial topical steroid application, the therapeutic optometrist shall consult with an ophthalmologist and the ophthalmologist shall then establish the treatment regimen. If a therapeutic optometrist utilizes topical steroids of a strength of less than one percent concentration to treat a condition and the condition has not substantially improved within 14 days of the initial topical steroid application, the therapeutic optometrist shall consult with an ophthalmologist and the ophthalmologist shall then establish

the treatment regimen. This subsection does not authorize an optometrist to treat glaucoma in a manner that was not permitted by law on August 31, 1991.

(c) A therapeutic optometrist must satisfactorily complete the educational requirements established by board rule to be certified as a therapeutic optometrist. These educational requirements must be provided by an entity approved by the board and must include an emphasis on the examination, diagnosis, and treatment of conditions of the human eye and adnexa. The board by rule shall require successful completion of accredited academic and clinical courses in pharmacology and related pathology that are approved by the board and that are determined by the board to be equivalent in the total number of classroom hours to the requirements for other health care professionals in this state who may be licensed to use pharmaceutical agents, including dentists, podiatrists, and physicians.

(d) The board shall adopt rules setting forth the specific pharmaceutical agents therapeutic optometrists may use in the practice of therapeutic optometry. Use by a therapeutic optometrist of pharmaceutical agents not authorized by the board or otherwise authorized by law shall constitute a violation of this Act.

(e) A five-member technical advisory committee is created to assist the board in determining the specific pharmaceutical agents which may be used in the practice of therapeutic optometry. Appointments to the committee shall be for two-year terms, and no member may serve more than two consecutive terms.

(f) The members of the technical advisory committee shall be appointed as follows: one must be an optometrist or therapeutic optometrist licensed and practicing in this state, appointed by the Texas Optometry Board; one must be a physician licensed and practicing in this state whose practice is limited to ophthalmology, appointed by the Texas State Board of Medical Examiners; one must be a pharmacist licensed and practicing pharmacy in this state, appointed by the Texas State Board of Pharmacy; one must be a faculty member at a state medical institution of higher education with expertise in pharmacology, appointed by the Texas State Board of Medical Examiners; and one must be a faculty member of a college of optometry at a state institution of higher education, appointed by the Texas Optometry Board.

(g) A therapeutic optometrist is subject to the same standard of professional care and judgment as a person practicing as an ophthalmologist under the Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes).

SECTION 3. Subsection (a), Section 2.02, Texas Optometry Act (Article 4552-2.02, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) Six members must be licensed optometrists or therapeutic optometrists who have been residents of this state actually engaged in the practice of optometry or therapeutic optometry in this state for the period of five years immediately preceding their appointment. Three of the six optometrist or therapeutic optometrist members must be affiliated with the Texas Optometric Association, Inc., and the other three optometrist or therapeutic optometrist members must be affiliated with the Texas Association of Optometrists, Inc. A board member may not simultaneously be a member of both the Texas Optometric Association, Inc., and the Texas Association of Optometrists, Inc.

SECTION 4. Subsection (e), Section 2.06, Texas Optometry Act (Article 4552-2.06, Vernon's Texas Civil Statutes), is amended to read as follows:

(e) Within a reasonable time after the completion of an examination of each patient, the examining optometrist or therapeutic optometrist shall present to the patient a prescription, a bill, or a receipt containing the license number and name of the optometrist or therapeutic optometrist performing the examination. Individual professional liability of the examining optometrist or therapeutic optometrist is not affected by this subsection.

SECTION 5. Section 3.01, Texas Optometry Act (Article 4552-3.01, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 3.01. **MUST PASS EXAMINATION.** Every person hereafter desiring to be licensed to practice therapeutic optometry in this state shall be required to pass the examination given by the Texas Optometry Board. However, the board may adopt substantive rules to authorize the waiver of this or other license requirements for an applicant with a valid license from another state having, at the time of the applicant's initial licensure in that state, license requirements and continuing education requirements substantially equivalent to those currently required in this state. The examination must include examination in pharmacology and related pathology.

SECTION 6. Section 3.07, Texas Optometry Act (Article 4552-3.07, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 3.07. **THOSE PASSING ENTITLED TO LICENSE.** Every candidate successfully passing the examination and meeting all requirements of the board shall be registered by the board as possessing the qualifications required by this law and shall receive from this board a license to practice therapeutic optometry in the state.

SECTION 7. Subsections (a) and (d), Section 4.01, Texas Optometry Act (Article 4552-4.01, Vernon's Texas Civil Statutes), are amended to read as follows:

(a) On or before January 1 of each year, every licensed optometrist and therapeutic optometrist in this state shall pay to the secretary-treasurer of the board an annual renewal fee for the renewal of his license to practice optometry or therapeutic optometry for the current year. The amount of the fee shall be as determined by the board. A person may renew an unexpired license by paying to the board before the expiration date of the license the required renewal fee. If a person's license has been expired for not more than 180 days, the person may renew the license by paying to the board the required renewal fee and a fee that is one-half of the examination fee for the license. If a person's license has been expired for more than 180 days but less than three years, the person may renew the license by paying to the board all unpaid renewal fees and a fee that is equal to the examination fee for the license. If a person's license has been expired for three years or more, the person may not renew the license. The person may obtain a new license by submitting to reexamination and complying with the requirements and procedures for obtaining an original license.

(d) Practicing optometry or therapeutic optometry without an annual renewal certificate for the current year as provided herein, shall have the same force and effect and be subject to all penalties of practicing optometry or therapeutic optometry without a license.

SECTION 8. Subsections (a), (c), and (e), Section 4.01B, Texas Optometry Act (Article 4552-4.01B, Vernon's Texas Civil Statutes), are amended to read as follows:

(a) Each optometrist and therapeutic optometrist licensed in this state shall take annual courses of study in subjects relating to the utilization and application of scientific, technical, and clinical advances in vision care, vision therapy, visual training, and other subjects relating to the practice of optometry or therapeutic optometry regularly taught by recognized optometric universities and schools.

(c) The continuing education requirements established by this section shall be fulfilled by attendance in continuing education courses sponsored by an accredited college of optometry or in a course approved by the board. Attendance at a course of study shall be certified to the board on a form provided by the board and shall be submitted by each licensed optometrist and therapeutic optometrist in conjunction with his application for renewal of his license and submission of renewal fee.

(e) Licensees who have not complied with the requirement of this section may not be issued a renewal license, except for the following persons who are exempt:

(1) a person who holds a Texas license but who does not practice optometry or therapeutic optometry in Texas;

(2) a licensee who served in the regular armed forces of the United States during part of the 12 months immediately preceding the annual license renewal date;

(3) a licensee who submits proof that he suffered a serious or disabling illness or physical disability which prevented him from complying with the requirements of this section during the 12 months immediately preceding the annual license renewal date; or

(4) a licensee first licensed within the 12 months immediately preceding the annual renewal date.

SECTION 9. Section 4.02, Texas Optometry Act (Article 4552-4.02, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 4.02. RENEWAL AFTER DISCHARGE FROM MILITARY. Any licensed optometrist or therapeutic optometrist whose renewal certificate has expired while he has been engaged in active duty with any United States military service or with the United States Public Health Service, engaged in full-time federal service, or engaged in training or education under the supervision of the United States, preliminary to induction into the military service, may have his renewal certificate reinstated without paying any lapsed renewal fee or registration fee, or without passing an examination, if within one year after termination of said service, training or education, other than by dishonorable discharge, he furnishes the board with affidavit to the effect that he has been so engaged and that his service, training or education has been so terminated.

SECTION 10. Subsections (a), (d), and (e), Section 4.04, Texas Optometry Act (Article 4552-4.04, Vernon's Texas Civil Statutes), are amended to read as follows:

(a) By five or more votes, the board may refuse to issue a license to an applicant, revoke or suspend a license, probate a license suspension, or reprimand a licensee if it finds that:

(1) the applicant or licensee is guilty of any fraud, deceit, dishonesty, or misrepresentation in the practice of optometry or therapeutic optometry or in his seeking admission to such practice;

(2) the applicant or licensee is unfit or incompetent by reason of negligence;

(3) the applicant or licensee has been convicted of a felony or a misdemeanor which involves moral turpitude;

(4) the applicant or licensee is an habitual drunkard or is addicted to the use of morphine, cocaine or other drugs having similar effect or has become insane or has been adjudged by a court of competent jurisdiction to be of unsound mind;

(5) the licensee has directly or indirectly employed, hired, procured, or induced a person, not licensed to practice optometry or therapeutic optometry in this state, to so practice;

(6) the licensee directly or indirectly aids or abets in the practice of optometry or therapeutic optometry any person not duly licensed to practice under this Act;

(7) the licensee lends, leases, rents or in any other manner places his license at the disposal or in the service of any person not licensed to practice optometry or therapeutic optometry in this state;

(8) the applicant or licensee has willfully or repeatedly violated any of the provisions of this Act;

(9) the licensee has willfully or repeatedly represented to the public or any member thereof that he is authorized or competent to cure or treat diseases of the eye beyond the authorization granted in this Act; or

(10) the licensee has his right to practice optometry or therapeutic optometry suspended or revoked by any federal agency for a cause which in the opinion of the board warrants such action.

(d) Upon application, the board may reissue a license to practice optometry or therapeutic optometry to a person whose license has been revoked but such application shall not be made prior to one year after the revocation and shall be made in such manner and form as the board may require.

(e) Nothing in this Act shall be construed to prevent the administrator or executor of the estate of a deceased optometrist or therapeutic optometrist from employing a licensed optometrist or therapeutic optometrist to carry on the practice of such deceased during the administration of such estate nor to prevent a licensed optometrist or therapeutic optometrist from working for such person during the administration of the estate when the legal representative thereof has been authorized by the county judge to continue the operation of such practice.

SECTION 11. Section 5.01, Texas Optometry Act (Article 4552-5.01, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 5.01. DISPLAY OF LICENSE. Every person practicing optometry or therapeutic optometry in this state shall display his license or certificate in a conspicuous place in the principal office where he practices optometry or therapeutic optometry and whenever required, exhibit such license or certificate to said board, or its authorized representative, and whenever practicing said profession of optometry or therapeutic optometry outside of, or away from said office or place of business, he shall deliver to each person fitted with glasses a bill, which shall contain his signature, post-office address, and number of his license or certificate, together with a specification of the lenses and material furnished and the prices charged for the same respectively.

SECTION 12. Section 5.02, Texas Optometry Act (Article 4552-5.02, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 5.02. RECORDATION OF LICENSE. It shall be unlawful for any person to practice optometry or therapeutic optometry within the limits of this state who has not registered and recorded his license in the office of the county clerk of the county in which he resides, and in each county in which he practices, together with his age, post-office address, place of birth, subscribed and verified by his oath. The fact of such oath and record shall be endorsed by the county clerk upon the license. The absence of record of such license in the office of the county clerk shall be prima facie evidence of the lack of the possession of such license to practice optometry or therapeutic optometry.

SECTION 13. Section 5.03, Texas Optometry Act (Article 4552-5.03, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 5.03. OPTOMETRY REGISTER. Each county clerk in this state shall purchase a book of suitable size, to be known as the "Optometry Register" of such county, and set apart at least one full page for the registration of each optometrist and therapeutic optometrist, and record in said optometry register the name and record of each optometrist and therapeutic optometrist who presents for record a license or certificate issued by the state board. When an optometrist or therapeutic optometrist shall have his license revoked, suspended, or cancelled, said county clerk, upon being notified by the board, shall make a note of the fact beneath the record in the optometry register, which entry shall close the record and be prima facie evidence of the fact that the license has been so cancelled, suspended or revoked. The county clerk of each county shall, upon the request of the secretary of the board, certify to the board a correct list of the optometrists and therapeutic

optometrists then registered in the county, together with such other information as the board may require.

SECTION 14. Section 5.04, Texas Optometry Act (Article 4552-5.04, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 5.04. PRACTICE WITHOUT LICENSE; FRAUD; HOUSE-TO-HOUSE. It shall be unlawful for any person to:

(1) falsely impersonate any person duly licensed as an optometrist or therapeutic optometrist under the provisions of this Act or to falsely assume another name;

(2) buy, sell, or fraudulently obtain any optometry diploma, optometry or therapeutic optometry license, record of registration or aid or abet therein;

(3) practice, offer, or hold himself out as authorized to practice optometry or therapeutic optometry or use in connection with his name any designation tending to imply that he is a practitioner of optometry or therapeutic optometry if not licensed to practice under the provisions of this Act;

(4) practice optometry or therapeutic optometry during the time his license shall be suspended or revoked;

(5) practice optometry or therapeutic optometry from house-to-house or on the streets or highways, notwithstanding any laws for the licensing of peddlers. This shall not be construed as prohibiting an optometrist, therapeutic optometrist, or physician from attending, prescribing for and furnishing spectacles, eyeglasses or ophthalmic lenses to a person who is confined to his abode by reason of illness or physical or mental infirmity, or in response to an unsolicited request or call, for such professional services.

SECTION 15. Section 5.05, Texas Optometry Act (Article 4552-5.05, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 5.05. UNAUTHORIZED TREATMENT. It is a violation of this Act for an optometrist or therapeutic optometrist to provide treatment to a person except as authorized by this Act or otherwise by law. An optometrist or therapeutic optometrist who provides treatment in violation of this section shall be considered to be practicing medicine without a license and, in addition to the prescribed penalties for a violation of this Act, [TREATING DISEASED EYES. Anyone practicing optometry who shall prescribe for or fit lenses for any diseased condition of the eye, or for the disease of any other organ of the body that manifests itself in the eye, shall be deemed to be practicing medicine within the meaning of that term as defined by law. Any such person possessing no license to practice medicine who shall so prescribe or fit lenses] shall be punished in the same manner as is prescribed for the practice of medicine without a license.

SECTION 16. Section 5.07, Texas Optometry Act (Article 4552-5.07, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 5.07. PRESCRIBING WITHOUT EXAMINATION. No licensed optometrist or therapeutic optometrist shall sign, or cause to be signed, a prescription for an ophthalmic lens without first making a personal examination of the eyes of the person for whom the prescription is made.

SECTION 17. Section 5.08, Texas Optometry Act (Article 4552-5.08, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 5.08. PRACTICE WHILE SUFFERING FROM CONTAGIOUS DISEASE. No licensed optometrist or therapeutic optometrist shall practice optometry or therapeutic optometry while knowingly suffering from a contagious or infectious disease.

SECTION 18. Subsections (a), (b), (c), and (g), Section 5.11, Texas Optometry Act (Article 4552-5.11, Vernon's Texas Civil Statutes), are amended to read as follows:

(a) Any person who is a manufacturer, wholesaler, or retailer of ophthalmic goods is prohibited from:

(1) directly or indirectly controlling or attempting to control the professional judgment, the manner of practice, or the practice of an optometrist or therapeutic optometrist; or

(2) directly or indirectly employing or hiring or contracting for the services of an optometrist or therapeutic optometrist if any part of such optometrist's or therapeutic optometrist's duties involve the practice of optometry or therapeutic optometry; or

(3) directly or indirectly making any payment to an optometrist or therapeutic optometrist for any service not actually rendered.

(b) For purposes of this section "controlling or attempting to control the professional judgment, the manner of practice, or the practice of an optometrist or therapeutic optometrist" shall include but not be limited to:

(1) setting or attempting to influence the professional fees of an optometrist or therapeutic optometrist;

(2) setting or attempting to influence the office hours of an optometrist or therapeutic optometrist;

(3) restricting or attempting to restrict an optometrist's or therapeutic optometrist's freedom to see patients on an appointment basis;

(4) terminating or threatening to terminate any lease, agreement, or other relationship in an effort to control the professional judgment, manner of practice, or practice of an optometrist or therapeutic optometrist;

(5) providing, hiring, or sharing employees or business services or similar items to or with an optometrist or therapeutic optometrist; or

(6) making or guaranteeing a loan to an optometrist or therapeutic optometrist in excess of the value of the collateral securing the loan.

(c) It is the intent of the legislature to prevent manufacturers, wholesalers, and retailers of ophthalmic goods from controlling or attempting to control the professional judgment, manner of practice, or the practice of an optometrist or therapeutic optometrist, and the provisions of this section shall be liberally construed to carry out this intent.

(g) This section shall not apply where the manufacturer, wholesaler, or retailer of ophthalmic goods is a licensed optometrist, therapeutic optometrist, or [a licensed] physician or legal entity 100 percent owned and controlled by one or more licensed optometrists, therapeutic optometrists, or [licensed] physicians; however, the exception set forth in this subsection shall not apply where the optometrist, therapeutic optometrist, or legal entity has offices at more than three locations.

SECTION 19. Section 5.12, Texas Optometry Act (Article 4552-5.12, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 5.12. BASIC COMPETENCE. (a) In order to insure an adequate examination of a patient for whom an optometrist or therapeutic optometrist signs or causes to be signed a prescription for an ophthalmic lens, in the initial examination of the patient the optometrist or therapeutic optometrist shall make and record, if possible, the following findings of the condition of the patient:

(1) Case History (ocular, physical, occupational and other pertinent information).

(2) Far point acuity, O.D., O.S., O.U., unaided; with old glasses, if available, and with new glasses, if any.

(3) External examination (lids, cornea, sclera, etc.).

(4) Internal ophthalmoscopic examination (media, fundus, etc.).

(5) Static retinoscopy, O.D., O.S.

(6) Subjective findings, far point and near point.

- (7) Phorias or ductions, far and near, lateral and vertical.
- (8) Amplitude or range of accommodation.
- (9) Amplitude or range of convergence.
- (10) Angle of vision, to right and to left.

(b) Every prescription for an ophthalmic lens shall include the following information: interpupillary distance, far and near; lens prescription, right and left; color or tint; segment type, size and position; the optometrist's or therapeutic optometrist's signature.

(c) The willful or repeated failure or refusal of an optometrist or therapeutic optometrist to comply with any of the foregoing requirements shall be considered by the board to constitute prima facie evidence that he is unfit or incompetent by reason of negligence within the meaning of Section 4.04(a)(3) of this Act, and shall be sufficient ground for the filing of charges to cancel, revoke or suspend his license. The charges shall state the specific instances in which it is alleged that the rule was not complied with. At a hearing pursuant to the filing of such charges, the person charged shall have the burden of establishing that compliance with the rule in each instance in which proof is adduced that it was not complied with was not necessary to a proper examination of the patient in that particular case.

SECTION 20. Subsections (a) through (g), (i), and (j), Section 5.13, Texas Optometry Act (Article 4552-5.13, Vernon's Texas Civil Statutes), are amended to read as follows:

(a) The provisions of this section are adopted in order to protect the public in the practice of optometry or therapeutic optometry, better enable members of the public to fix professional responsibility, and further safeguard the doctor-patient relationship.

(b) No optometrist or therapeutic optometrist shall divide, share, split, or allocate, either directly or indirectly, any fee for optometric or therapeutic optometric services or materials with any lay person, firm or corporation, provided that this rule shall not be interpreted to prevent an optometrist or therapeutic optometrist from paying an employee in the regular course of employment, and provided further, that it shall not be construed as a violation of this Act for any optometrist or therapeutic optometrist to lease space from an establishment, or to pay for franchise fees or other services, on a percentage or gross receipts basis, or to sell, transfer or assign accounts receivable. The provisions of this section authorizing payment based upon a percentage of gross receipts shall not be construed as authorizing any activity which is prohibited under Section 5.11 of this Act.

(c) No optometrist or therapeutic optometrist shall divide, share, split or allocate, either directly or indirectly, any fee for optometric or therapeutic optometric services or materials with another optometrist, therapeutic optometrist, or with a physician except upon a division of service or responsibility provided that this rule shall not be interpreted to prevent partnerships for the practice of optometry or therapeutic optometry. This Act does not prohibit an optometrist or therapeutic optometrist from being employed on a salary, with or without bonus arrangements, by a licensed optometrist, therapeutic optometrist, or physician, regardless of the amount of supervision exerted by the employing optometrist, therapeutic optometrist, or physician over the office in which the employed optometrist or therapeutic optometrist works, provided such bonus arrangements, if any, shall not be based in whole or in part on the business or income of any optical company.

(d) An optometrist or therapeutic optometrist may practice optometry or therapeutic optometry under a trade name or an assumed name or under the name of a professional corporation or a professional association. Every optometrist or therapeutic optometrist practicing in the State of Texas, including those practicing

under a trade or assumed name, shall be required to display the actual name under which he is licensed by the board in a manner such that his name will be visible to the public prior to entry of the optometrist's or therapeutic optometrist's office reception area.

(e) No optometrist or therapeutic optometrist shall use, cause or allow to be used, his name or professional identification, as authorized by Article 4590e, as amended, Revised Civil Statutes of Texas, 1925, on or about the door, window, wall, directory, or any sign or listing whatsoever, of any office, location or place where optometry or therapeutic optometry is practiced, unless said optometrist or therapeutic optometrist is actually present and practicing optometry or therapeutic optometry therein during the hours such office, location or place of practice is open to the public for the practice of optometry or therapeutic optometry.

(f) No optometrist or therapeutic optometrist shall practice or continue to practice optometry or therapeutic optometry in any office, location or place of practice where any name, names or professional identification on or about the door, window, wall, directory, or any sign or listing whatsoever, or in any manner used in connection therewith, shall indicate or tend to indicate that such office, location or place of practice is owned, operated, supervised, staffed, directed or attended by any person not actually present and practicing optometry or therapeutic optometry therein during the hours such office, location or place of practice is open to the public for the practice of optometry or therapeutic optometry.

(g) The requirement of Subsections (e) and (f) of this section that an optometrist or therapeutic optometrist be "actually present" in an office, location or place of practice holding his name out to the public shall be deemed satisfied if the optometrist or therapeutic optometrist is, as to such office, location or place of practice, either:

(1) physically present therein more than half the total number of hours such office, location, or place of practice is open to the public for the practice of optometry or therapeutic optometry during each calendar month for at least nine months in each calendar year; or

(2) physically present in such office, location, or place of practice for at least one-half of the time such person conducts, directs, or supervises any practice of optometry or therapeutic optometry.

(i) The requirement of Subsections (e) and (f) of this section that an optometrist or therapeutic optometrist be "practicing optometry or therapeutic optometry" at an office, location, or place of practice holding his name out to the public shall be deemed satisfied if the optometrist or therapeutic optometrist regularly makes personal examination at such office, location, or place of practice of the eyes of some of the persons prescribed for therein or regularly supervises or directs in person at such office, location or place of practice such examinations.

(j) The willful or repeated failure or refusal of an optometrist or therapeutic optometrist to comply with any of the provisions of this section shall be considered by the board to constitute prima facie evidence that such optometrist or therapeutic optometrist is guilty of violation of this Act, and shall be sufficient ground for the filing of charges to cancel, revoke or suspend his license. The charges shall state the specific instance or instances in which it is alleged that the rule was not complied with. Alternatively, or in addition to the above, it shall be the duty of the board to institute and prosecute an action in a court of competent jurisdiction to restrain or enjoin the violation of any of the preceding rules.

SECTION 21. Subsections (a) through (c) and (e) through (h), Section 5.14, Texas Optometry Act (Article 4552-5.14, Vernon's Texas Civil Statutes), are amended to read as follows:

(a) In order to safeguard the visual welfare of the public and the doctor-patient [optometrist-patient] relationship, fix professional responsibility, establish

standards of professional surroundings, more nearly secure to the patient the optometrist's or therapeutic optometrist's undivided loyalty and service, and carry out the prohibitions of this Act against placing an optometric or therapeutic optometric license in the service or at the disposal of unlicensed persons, the provisions of this section are applicable to any optometrist or therapeutic optometrist who leases space from and practices optometry or therapeutic optometry on the premises of a mercantile establishment.

(b) The practice must be owned by a Texas-licensed optometrist or therapeutic optometrist. Every phase of the practice and the leased premises shall be under the exclusive control of a Texas-licensed optometrist or therapeutic optometrist.

(c) The prescription files and all business records of the practice shall be the sole property of the optometrist or therapeutic optometrist and free from involvement with the mercantile establishment or any unlicensed person. Except, however, that those business records essential to the successful initiation or continuation of a percentage of gross receipts lease of space may be inspected by the applicable lessor.

(e) The leased space shall have a patient's entrance opening on a public street, hall, lobby, corridor, or other public thoroughfare. The aisle of a mercantile establishment does not comply with this requirement. An entrance to the leased space is not a patient's entrance within the meaning of this subsection unless actually used as an entrance by the optometrist's or therapeutic optometrist's patients.

(f) No phase of the optometrist's or therapeutic optometrist's practice shall be conducted as a department or concession of the mercantile establishment; and there shall be no legends or signs such as "Optical Department," "Optometrical Department," or others of similar import, displayed on any part of the premises or in any advertising.

(g) The optometrist or therapeutic optometrist shall not permit his name or his practice to be directly or indirectly used in connection with the mercantile establishment in any advertising, displays, signs, or in any other manner.

(h) All credit accounts for patients shall be established with the optometrist or therapeutic optometrist and not the credit department of the mercantile establishment. However, nothing in this subsection prevents the optometrist or therapeutic optometrist from thereafter selling, transferring, or assigning any such account.

SECTION 22. Section 5.15, Texas Optometry Act (Article 4552-5.15, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 5.15. RELATIONSHIPS OF OPTOMETRISTS AND THERAPEUTIC OPTOMETRISTS WITH DISPENSING OPTICIANS. (a) The purpose of this section is to insure that the practices [practice] of optometry and therapeutic optometry shall be carried out in such a manner that they are [it is] completely and totally separated from the business of any dispensing optician, with no control of one by the other and no solicitation for one by the other, except as hereinafter set forth.

(b) If an optometrist or therapeutic optometrist occupies space for the practice of optometry or therapeutic optometry in a building or premises in which any person, firm, or corporation engages in the business of a dispensing optician, the space occupied by the optometrist or therapeutic optometrist shall be separated from the space occupied by the dispensing optician by solid partitions or walls from floor to ceiling. The space occupied by the optometrist or therapeutic optometrist shall have a patient's entrance opening on a public street, hall, lobby, corridor, or other public thoroughfare. An entrance is not a patient's entrance within the meaning of this subsection unless actually used as an entrance by the optometrist's or therapeutic optometrist's patients.

(c) An optometrist or therapeutic optometrist may engage in the business of a dispensing optician, own stock in a corporation engaged in the business of a

dispensing optician, or be a partner in a firm engaged in the business of a dispensing optician, but the books, records, and accounts of the firm or corporation must be kept separate and distinct from the books, records, and accounts of the practice of the optometrist or therapeutic optometrist.

(d) No person, firm, or corporation engaged in the business of a dispensing optician, other than a licensed optometrist, therapeutic optometrist, or physician, shall have, own, or acquire any interest in the practice, books, records, files, equipment, or materials of a licensed optometrist or therapeutic optometrist, or have, own, or acquire any interest in the premises or space occupied by a licensed optometrist or therapeutic optometrist for the practice of optometry or therapeutic optometry other than a lease for a specific term without retention of the present right of occupancy on the part of the dispensing optician. In the event an optometrist, therapeutic optometrist, or physician who is also engaged in the business of a dispensing optician (whether as an individual, firm, or corporation) does own an interest in the practice, books, records, files, equipment or materials of another licensed optometrist or therapeutic optometrist, he shall maintain a completely separate set of books, records, files, and accounts in connection therewith.

(e) If, after examining a patient, an optometrist or therapeutic optometrist believes that lenses are required to correct or remedy any defect or abnormal condition of vision, the optometrist or therapeutic optometrist shall so inform the patient and shall expressly indicate verbally or by other means that the patient has two alternatives for the preparation of the lenses according to the optometrist's or therapeutic optometrist's prescription: First, that the optometrist or therapeutic optometrist will prepare or have the lenses prepared according to the prescription; and second, that the patient may have the prescription filled by any dispensing optician but should return for an optometrical examination of the lenses.

SECTION 23. Section 5.16, Texas Optometry Act (Article 4552-5.16, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 5.16. LEASING SPACE OR PAYMENT FOR FRANCHISE FEES OR OTHER SERVICES ON PERCENTAGE BASIS; TRANSFERRING ACCOUNTS RECEIVABLE. It shall not be construed as a violation of this Act for any optometrist or therapeutic optometrist to lease space from an establishment, or to pay for franchise fees or other services, on a percentage or gross receipts basis, or to sell, transfer or assign accounts receivable. The provisions of this section authorizing payment based upon a percentage of gross receipts shall not be construed as authorizing any activity which is prohibited under Section 5.11 of this Act.

SECTION 24. Section 5.18, Texas Optometry Act (Article 4552-5.18, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 5.18. PRACTICE OF OPTOMETRY OR THERAPEUTIC OPTOMETRY WITHOUT A LICENSE. (a) It shall be a violation of this Act for any person who is not a licensed optometrist, therapeutic optometrist, or [a licensed] physician to engage in the practice of optometry or therapeutic optometry as such practices are [practice is] defined by this Act.

(b) Any person who shall be injured by another person who violates this section may institute suit in any district court in the county wherein the violation is alleged to have occurred to require enforcement by injunctive procedures and to recover damages sustained, plus costs of court and reasonable attorney's fees.

(c) The attorney general's office or the Texas Optometry Board may institute suit in any district court of the county in which a violation of this section is alleged to have occurred to require enforcement by injunctive procedures and to recover a civil penalty not to exceed \$10,000 per violation, plus costs of court and reasonable attorney's fees.

(d) Violations of this section are actionable under the Deceptive Trade Practices-Consumer Protection Act, as amended (Subchapter E, Chapter 17, Title 2, Business & Commerce Code).

SECTION 25. The Texas Optometry Act (Article 4552-1.02 et seq., Vernon's Texas Civil Statutes), is amended by adding Section 5.20 to read as follows:

Sec. 5.20. USE OF THE TERM "OPTOMETRIST" IN OTHER ACTS. Where the term "optometrist" is used in any other law or regulation adopted by this state or by an agency or subdivision thereof, such term shall be construed to mean either an "optometrist" or a "therapeutic optometrist" as defined by this Act, unless the context clearly indicates otherwise.

SECTION 26. Subdivision (12), Section 483.001, Health and Safety Code, is amended to read as follows:

(12) "Practitioner" means a person licensed:

(A) by the Texas State Board of Medical Examiners, State Board of Dental Examiners, Texas State Board of Podiatry Examiners, Texas Optometry Board, or State Board of Veterinary Medical Examiners to prescribe and administer dangerous drugs;

(B) by another state in a health field in which, under the laws of this state, a licensee may legally prescribe dangerous drugs; or

(C) in Canada or Mexico in a health field in which, under the laws of this state, a licensee may legally prescribe dangerous drugs.

SECTION 27. Section 483.021, Health and Safety Code, is amended to read as follows:

Sec. 483.021. DETERMINATION BY PHARMACIST ON REQUEST TO DISPENSE DRUG. (a) A pharmacist who is requested to dispense a dangerous drug under a prescription issued by a practitioner described by Section 483.001(12)(C) shall determine, in the exercise of the pharmacist's professional judgment, that:

(1) the prescription is authentic;

(2) the prescription was issued under a valid patient-physician relationship; and

(3) the prescribed drug is considered necessary for the treatment of illness.

(b) A pharmacist who is requested to dispense a dangerous drug under a prescription issued by a therapeutic optometrist shall determine, in the exercise of the pharmacist's professional judgment, whether the prescription is for a dangerous drug that a therapeutic optometrist is authorized to prescribe under Section 1.03, Texas Optometry Act (Article 4552-1.01 et seq., Vernon's Texas Civil Statutes).

SECTION 28. Section 17, Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes), is amended by adding Subsection (w) to read as follows:

(w) The board shall inform each holder of a license to engage in the practice of pharmacy and each holder of a license to operate a pharmacy of the authority of therapeutic optometrists to prescribe drugs under Section 1.03, Texas Optometry Act (Article 4552-1.01 et seq., Vernon's Texas Civil Statutes), by mailing to each license holder an annual notice that:

(1) describes the authority of a therapeutic optometrist to prescribe drugs; and

(2) lists each drug that a therapeutic optometrist may lawfully prescribe.

SECTION 29. Subdivision (6), Subsection (d), Section 3.06, Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), is repealed.

SECTION 30. (a) Except as provided by Subsections (b) and (c) of this section, this Act takes effect September 1, 1991.

(b) A person holding a license as an optometrist on August 31, 1992, may continue to practice as an optometrist under the Texas Optometry Act (Article

4552-1.01 et seq., Vernon's Texas Civil Statutes) or may apply to be licensed as a therapeutic optometrist.

(c) A person initially licensed by the Texas Optometry Board on or after September 1, 1992, must be licensed as a therapeutic optometrist in order to practice under the Texas Optometry Act (Article 4552-1.01 et seq., Vernon's Texas Civil Statutes). The Texas Optometry Board may not issue an initial license to practice optometry on or after September 1, 1992.

SECTION 31. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

On motion of Senator Glasgow and by unanimous consent, the Senate concurred in the House amendment to S.B. 774 by a viva voce vote.

SENATE RULE 11.11 SUSPENDED

On motion of Senator Haley and by unanimous consent, Senate Rule 11.11 was suspended in order that the Committee on Administration might consider the following bill and resolutions today:

S.B. 1614
H.C.R. 154
H.C.R. 197
H.C.R. 103

SENATE RULE 11.11 SUSPENDED

On motion of Senator Green and by unanimous consent, Senate Rule 11.11 was suspended in order that the Committee on Jurisprudence might consider the following bills tomorrow:

H.B. 358
H.B. 625
H.B. 1233
H.B. 1563
H.B. 2059
H.B. 2769
H.B. 2787
H.B. 2166

SENATE RULE 11.11 SUSPENDED

On motion of Senator Dickson and by unanimous consent, Senate Rule 11.11 was suspended in order that the Committee on Economic Development might consider the following bills today:

H.B. 1247
H.B. 1411
H.B. 1250
H.B. 2187
H.B. 1387
S.B. 1615

CONGRATULATORY RESOLUTIONS

S.C.R. 153 - By Barrientos: Extending congratulations to the Stephen F. Austin High School newspaper staff members on their outstanding achievements.

S.R. 816 - By Sibley: Joining with the citizens of Waco, other Texans, and fellow Americans in observing the national holiday, Memorial Day, on Monday, May 27, 1991.

S.R. 817 - By Barrientos: Paying tribute to H. E. Bovay, Jr., for his distinguished engineering career and noteworthy accomplishments.

S.R. 818 - By Lyon: Joining with the City Council and the citizens of Fate in designating May 19, 1991, as "Crow" Lindsey Day in honor of this beloved resident who is celebrating his 80th birthday.

S.R. 819 - By Turner: Recognizing Brazos Beautiful, Incorporated, for the splendid work it has done in beautifying Brazos County.

S.R. 821 - By Moncrief: Commending the Shipman family for the splendid work they are doing for the children at the Happy Hill Farm and expressing gratitude to them on behalf of all the citizens of Texas.

S.R. 822 - By Ratliff: Commending the City of Longview for its appreciation and preservation of the fascinating purple martin and designating Longview as the Purple Martin Capital of Texas.

S.R. 823 - By Armbrister: Extending congratulations to the church members of Holy Cross Lutheran Church in Yoakum on the occasion of its centennial anniversary.

ADJOURNMENT

On motion of Senator Brooks, the Senate at 3:59 p.m. adjourned, in memory of Patrick Herron of Austin and John S. Gillett of Kingsville, until 10:30 a.m. tomorrow.

APPENDIX

Sent to Comptroller
(May 20, 1991)

S.B. 1108

Sent to Governor
(May 21, 1991)

S.C.R. 124	S.B. 85	S.B. 784
S.C.R. 125	S.B. 87	S.B. 815
S.C.R. 126	S.B. 148	S.B. 880
S.C.R. 127	S.B. 253	S.B. 934
S.C.R. 128	S.B. 276	S.B. 944
S.C.R. 129	S.B. 382	S.B. 993
S.C.R. 130	S.B. 408	S.B. 1050
S.C.R. 131	S.B. 521	S.B. 1054
S.C.R. 132	S.B. 542	S.B. 1057
S.C.R. 133	S.B. 573	S.B. 1149
S.C.R. 135	S.B. 583	S.B. 1193
S.C.R. 142	S.B. 643	S.B. 1220
S.C.R. 149	S.B. 679	S.B. 1424
S.B. 42	S.B. 738	S.B. 1460
S.B. 80	S.B. 773	S.B. 1531

Filed with Secretary of State
(May 21, 1991)

S.J.R. 15
S.J.R. 34